



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

SUCCESSION CAUSE NUMBER 342 OF 2012

**IN THE MATTER OF THE ESTATE OF THE LATE
MWAURA MACHARIA MWANGI (DECEASED)**

JAMES NJOROGE MWAURA -----

APPLICANT

AND

JOHN MWAURA MWANGI -----

RESPONDENT

RULING

1. The Judgement follows an amended Summons for Revocation of Grant of Letters of Administration herein issued on 10/4/1995 and confirmed on 25/9/1995 in the Senior Resident Magistrate's Court at Kiambu. That Grant was subsequently revoked by consent of the parties

entered on 12/3/2012 in High Court at Nairobi, and the matter transferred to this court. The following orders are sought in the amended Summons;-

- 1. Spent.**
- 2. THAT this court be pleased to suspend all other or further actions or implementation of the grant of letters of administration issued to the respondent on 10th April 1995 and confirmed on 25th September 1995 in Kiambu Senior Resident Magistrate's Court Succession Cause Number 16 of 1995 in the matter of the estate of the late MWAURA MACHARIA MWANGI.**
- 3. THAT this honourable court be pleased to exercise its supervisory powers by calling for the entire file in Kiambu Senior Resident Magistrate's Court Succession Cause Number 16 of 1995 in the matter of the Estate of the late Mwaura Macharia Mwangi for purposes of verifying and ascertaining its contents, correctness or otherwise.**
- 4. THAT this court be pleased to nullify the grant of letters of administration issued to the respondent on the 10th April 1995 and**

confirmed 25th September 1995 in the Kiambu Senior Resident Magistrate's Court Succession Cause Number 16 of 1995 In the matter of the estate late MWAURA MACHARIA MWANGI.

5. THAT the costs of this application be borne by the respondent.

2. The Application was heard by *viva voce* evidence. The Objector testified that the deceased was his father while the Respondent to this Application is his cousin. The deceased is said to have introduced the Respondent and his brother to his family at a place called Karunga. The Objector stated that he never met the Respondent thereafter.
3. According to the Objector the deceased owned a parcel of land known as Bahati/Bahati Block 1/60 to which the family moved in 1984. The deceased died in 1994 while living with the Respondent in Kiambu. The Objector at the time worked in Kisumu and his mother was sickly.
4. The Objector further stated that upon hearing of the deceased's demise, he travelled to Kiambu and saw the

body in the mortuary. The Respondent allegedly thereafter filed Succession proceedings in Kiambu without consulting his side of the family, intending to cause the deceased's Estate to be transferred exclusively to him.

5. The Objector's witness (James Nderitu) I testified that he had known the deceased since 1972 after they met in Bahati. Both worked at a European's Farm as a mason and carpenter. The witness continued to state that in 1974 Wairimu Ndegwa Company and Mutukanio Company assumed ownership of the farm which was named Bahati Mutukanio Company. He and the deceased continued working for the company. With their earnings they brought shares resulting in the deceased acquiring plot number 160 measuring 2 acres. The Objector's witness himself got plots number 54 also measuring 2 acres.
6. The witness continued to tell the court that the deceased was buried on his land where he had built a house. The Objector's mother was also buried next to the deceased

who was her husband. The two spouses are said to have moved to the land in 1972. The witness asserts that one of the couple's children is the Objector herein.

7. The Respondent also testified and called one witness. He told the court that the deceased was his uncle who died in 1994 at Gatundu Hospital, Kiambu County. Before his death he resided at Bahati. The deceased's neighbour (James Muchiri) who is the Respondent's witness had informed the Respondent of the deceased's ill health. The Respondent told the court he took the deceased to stay in his mother's home but he unfortunately died 3 months later. Burial took place on his land at Bahati.
8. According to the Respondent, the deceased left a Will bequeathing his property to him because he did not have children. He thereafter obtained registration as the owner of the deceased's land *vide* these succession proceedings.
9. The Respondent further told the court that he never saw the Objector living with or taking care of the deceased.

10. The Respondent's witness confirmed the latter's evidence that the deceased was his neighbour at Bahati. The Objector's witness was also his neighbour. It is stated that the deceased lived alone and never mentioned about having a wife or children. The witness claims to have lived at Bahati with the deceased between 1989 and 1994 during which period he came to know the Respondent as the deceased's nephew. When the deceased got sick in 1992, he sent the Respondent's witness to inform his relatives in Gatundu where they both hailed from. In 1993 the deceased was taken to Gatundu for treatment and he died thereafter. According to the witness, no one claimed to be the deceased's wife or child at the funeral.
11. I have perused the evidence together with written submissions put in by Counsel for the parties against the record.
12. Suspension of implementation of Grant and nullification of the same do not lie since the Grant has been revoked by consent of the parties on 12/3/2012. In fact there is no

Grant in existence. Prayers 2 and 4 of the Application are accordingly declined.

13. For completeness of the record, the Kiambu Senior Resident Magistrate Court's Succession file number 16 of 1995 is ordered transferred to this court.
14. No order is made as to the costs of the Application.

J. M. NANG'EA - JUDGE

**Ruling delivered virtually this 20th day of February, 2026
in the presence of:**

Objector's Advocate, Ms Njoroge

**Respondent's Advocate, Mr. Muthui for Mr. Kisilah
Court Assistant (Jeniffer)**

J.M. NANG'EA - JUDGE.