



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

SUCCESSION CAUSE NUMBER 24 OF 2021

**IN THE MATTER OF THE ESTATE OF CHARLES MAINGI
MACHARIA (DECEASED)**

**CONSOLATA NJERI MAINGI ----- 1ST
ADMINISTRATOR/APPLICANT**

**FRANCIS MACHARIA MAINGI ----- 2ND
ADMINISTRATOR**

RULING

1. For determination is a Summons dated 25th April 2025 by which the 1st Administratrix of the deceased's Estate seeks reliefs as herebelow;-

- a) THAT the honorable court do rectify the grant herein for the share given to CONSOLATA NJERI MAINGI who is holding parcels DUNDORI/LANET BLOCK 5 /263 in life interest for the benefit of the deceased's children to hold 1 3/4 acres of the said parcel absolutely and and the 1/4 acre of the land where the matrimonial**

home is comprised to hold in life interest for the benefit of all the deceased children.

b) THAT the honourable do order registration of 1 3/4 acres of the parcel DUNDORI LANET BLOCK 5/263 in the name of the applicant CONSOLATA NJERI MAINGI absolutely who has been in and out of hospital to enable her sell the said properties in a bid to cater for her medical treatment and for her daily bread as she has no source of income.

c) THAT the Certificate of Confirmation of Grant issued by this court on 25th September 2023 to the said CONSOLATA NJERI MAINGI AND FRANCIS MACHARIA MAINGI be rectified and reflect the following beneficiaries were left out in the confirmation of grants yet they were in the judgement.

- 1. ROSEMARY WANJIRU NDERITU DUNDORI/LANET BLOCK/2454 (KIAMUNYEKI "A") 0.075 HA**
- 2. MWANGI WA GICHIA DUNDORI/LANET BLOCK/2450 (KIAMUNYEKI "A") 0.075 HA**
- 3. ZAKARIA KIGERA NGIGI DUNDORI/LANET BLOCK 5/2308 (KIAMUNYEKI "A") 1/4 acre.**

d) THAT the costs of this application be provided for.

2. The Applicant deposes in an affidavit supporting the Application that she was the deceased's wife. Grant of Letters of Administration of the Estate was issued jointly to her and the 2nd Administrator (Francis Macharia Mwaingi) who is the Respondent to this Application.
3. The Applicant laments that while confirming the Grant the court only gave her an old motor vehicle and a life interest in property known as Dundori/Lanet Block 5/26B, to hold in trust for all the deceased's surviving children. She complains of ill health and wants to be allowed to sell a portion of the above stated property to cater for her medical costs and daily upkeep. The Applicant states that most beneficiaries of the Estate have consented to excising off 1 3/4 acres from property known as Dundori Lanet Block 5/263 for registration in her name and subsequent sale to cater for the stated costs.
4. The Applicant also wants the beneficiaries alluded to above in order c) of the Summons to be given part of the deceased's Estate as proposed.

5. The Respondent opposes the Application by an affidavit in reply. He contends that the Applicant wants to disinherit other beneficiaries of the deceased's Estate. The court is told that only the children of the deceased's 2nd house of which the Applicant is the matriarch have given their consent to the Application. The Respondent contends that he and his siblings (Alfred Wambare Maingi) who are children of the 1st house of the deceased are not agreeable to the Applicant's proposal.
6. The Respondent further states that the property the Applicant wants a portion of to sell was matrimonial property that all the beneficiaries of the Estate are entitled to. He suggests that the Applicant could instead sell her own property described as Dundori Lanet Block 5/259 plot No. 2304 measuring 15 acres to meet her needs. Besides, the court is told that there are other specified properties belonging to the Estate that could be sold or otherwise exploited to help settle the Applicant's bills. The Respondent therefore opines that it is unnecessary to sell any part of the Estate on which the matrimonial home stands.

7. The Applicant reacted by filing a further affidavit that reiterates her earlier averments. While conceding that children of the deceased's 1st house have not consented to her Application, she states that the part of the property in question containing the matrimonial home which is highly valued is not intended to be sold.
8. It would appear that only the Applicant filed submissions which I have perused against the affidavit evidence and the record. Grant of Letters of Administration herein has been confirmed and the deceased's Estate transmitted to identified heirs who include the Applicant.
9. The Beneficiaries of the deceased's Estate from the 1st house are opposed to this Application saying that the Applicant has her own property she can utilize for her needs.
10. Indeed the Certificate of Confirmation of Grant herein shows that the Applicant has personally been bequeathed property out of the Estate of the deceased. The property may be utilised for her needs instead of selling property the Applicant holds in trust for the children of the deceased.

11. Regarding alleged exclusion of the named beneficiaries from the Estate, it is noted that one of the named beneficiaries is Rosemary Wanjiru Nderitu. She was in fact catered for as she got 0.075 Ha of Dundori/Lanet Block/2455 (Kiamunyeki "A" as per the Certificate of Confirmation of Grant. Mwaniki wa Gichia and Zacharia Gikera Ngigi are not catered for. It is not, however, explained why they have not personally protested by filing necessary affidavits. There is no basis for the Applicant to purport to represent them when there is no indication that they are not of age.

12. The Application is dismissed with no order as to costs.

J. M. NANG'EA - JUDGE

Ruling delivered virtually this 18th day of February, 2026.

In the presence of:

1st Administrator's Advocate, Ms Gatheca

2nd Administrator's Advocate, Ms Wainaina

Court Assistant (Jeniffer)

J.M. NANG'EA - JUDGE.