



REPUBLIC OF KENYA



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**In re Estate of Kenth alias Siingh (Deceased) (Succession Cause 1327 of 2015)  
[2026] KEHC 2115 (KLR) (Family) (17 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2115 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY**

**SUCCESSION CAUSE 1327 OF 2015**

**EKO OGOLA, J**

**FEBRUARY 17, 2026**

**IN THE MATTER OF THE ESTATE OF MEGH SINGH KENTH ALIAS MEGH SINGH  
S/O ARJAN SINGH ALIAS MEGH SINGH ARJAN PRATAP SINGH (DECEASED)**

**BETWEEN**

**BHUPINDER KAUR ..... APPLICANT**

**AND**

**HARPAL KAUR KENTH ..... 1<sup>ST</sup> RESPONDENT**

**HARJEET SINGH KENTH ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The deceased died testate on 5<sup>th</sup> September 2013. In his last Will and Testament dated 11<sup>th</sup> May 1999, the deceased appointed his surviving widow, the 1<sup>st</sup> respondent, as the executrix of the Will. Grant of Probate was issued to the 1<sup>st</sup> respondent on 21<sup>st</sup> August 2015. The grant was subsequently confirmed, and a Certificate of Confirmation of Grant of Probate was issued on 8<sup>th</sup> February 2017.
2. The subject of this Ruling is Summons for Revocation of Grant dated 22<sup>nd</sup> June 2023. The applicant prayed for the following orders:-
  - a. That the grant of probate made to Harpal Kaur Kenth (the 1<sup>st</sup> respondent) on 21<sup>st</sup> August 2015, and confirmed on 8<sup>th</sup> February 2017 be revoked.
  - b. That the proceedings leading to the issuance of the grant and the subsequent confirmation be declared defective in substance and set aside.
  - c. That the Will dated 11<sup>th</sup> May 1990, which is the subject of the confirmed grant of probate, be declared invalid.



- d. That the court to declare that the applicant as a rightful beneficiary of the deceased's estate, is entitled to a share of the assets of the estate.
  - e. That a fresh grant of representation to issue in intestacy and the applicant and the 1<sup>st</sup> respondent be appointed as the administrators of the estate of the deceased.
  - f. That the respondents provide an account of the current state of the estate's administration in order to determine what remains undistributed.
  - g. That the costs of this application be provided for.
3. The summons was based on the grounds set out therein and the applicant's supporting affidavit.
  4. The applicant deposed that she is the biological daughter of the deceased and resides in the United Kingdom but maintains contact with her family in Kenya. Her principal argument is that she, together with several of her siblings, was excluded from both the deceased Will and from participation in the succession proceedings that culminated in the confirmed grant.
  5. According to the applicant, the deceased's Will dated 11<sup>th</sup> May 1999, upon which the grant was founded, does not reflect the true intentions of the deceased. She avers that during his lifetime her father consistently communicated that he had made provision for all his children. She therefore finds it implausible that he would deliberately disinherit a substantial number of them.
  6. The applicant further points to what she perceives as anomalies in the document, including the omission of properties acquired after the date of the alleged Will. In her view, even assuming the Will's authenticity, the deceased would have revised it to capture his later acquisitions. For these reasons, she expresses the belief that the Will may not be genuine.
  7. The applicant contends that she was never notified of the petition for probate; her consent was never sought prior to confirmation of the grant; and she remained unaware that the process had been concluded. She states that for several years she made inquiries from the respondents and was repeatedly informed that nothing was taking place. She only became aware of the existence of the grant after her mother allegedly received communication relating to a proposed transaction involving estate property, with documents said to bear her signature despite her being out of the country at the time.
  8. A central feature of the applicant's grievance concerns the conduct of the 2<sup>nd</sup> respondent, the deceased son. According to the applicant, the 2<sup>nd</sup> respondent has been pressuring the 1<sup>st</sup> respondent to sign documents she did not understand, frustrating attempts at dialogue, refusing to attend meetings convened by counsel, and taking control of estate affairs without lawful authority. The applicant characterizes the 2<sup>nd</sup> respondent's actions as intermeddling and asserts that he has attempted to dispose off assets without the approval of beneficiaries or of the 1<sup>st</sup> respondent.
  9. The applicant further deposes that upon eventually obtaining copies of the court pleadings through new advocates, she discovered that she and other children of the deceased had been entirely omitted as beneficiaries, and upon consulting them, the applicant deposed that they confirmed that they too had neither been informed nor involved.
  10. In light of these matters, the Applicant maintains that the process leading to the issuance and confirmation of the grant was fundamentally defective, inconsistent with the deceased's expressed wishes, and prejudicial to lawful beneficiaries. She therefore urges the Court, in the interests of justice and for the protection of the estate, to revoke the grant, invalidate the Will, and allow the remaining property to devolve in accordance with the rules of intestacy, with the appointment of an additional administrator to assist the 1<sup>st</sup> respondent as the executrix.



11. Gurdev Singh Kenth and Bhagat Singh Kenth, swore affidavits dated 24<sup>th</sup> April 2024 in support of the summons.
12. They deposed that they were biological children of the deceased who, during his lifetime, maintained close and trusting relationships with him, participated in the family businesses, and were regularly involved in discussions concerning property, management and the future distribution of the estate. According to them, the deceased consistently and openly affirmed that he intended to treat all his children equally, regardless of the different houses within the polygamous family structure.
13. They further stated that because of this repeated assurance, they never contemplated that any testamentary instrument would exclude some of them. They contend that until the deceased fell ill and became incapacitated, he remained firm in expressing that all his children would benefit from his estate without exception. Bhagat further recalls contributing towards his father's medical expenses during his final illness, underscoring the closeness of their relationship.
14. After the deceased's death in 2013, they deposed that they attempted to inquire from the 2<sup>nd</sup> respondent about whether a Will existed and whether succession proceedings had commenced. They state that they received no clear answers. Instead, they describe a pattern of evasion and secrecy, which they say was reinforced by the conduct of the family advocate, Ramesh Manek.
15. They added that, shortly before the COVID-19 pandemic, they were informed that only certain beneficiaries had been invited to the reading of the Will. Upon making independent inquiries, they discovered that apart from the 2<sup>nd</sup> respondent and those named in the Will of the deceased, none of the other children had been invited or informed.
16. They deposed that they were never supplied with a copy of the Will, and they remained unaware that probate proceedings had been filed and concluded. It was only after new advocates obtained court documents that they discovered that they, together with several other children of the deceased, had been omitted as beneficiaries and that the will relied upon distributed the entire estate to only three persons.
17. They consider this outcome wholly inconsistent with their father's lifetime declarations and family practice. They also observe that the Will does not account for properties acquired after 1999, and in their view, even if genuine, it is improbable that the deceased would not have updated it. These circumstances lead them to suspect that the document may not reflect the true wishes of the deceased and could be fraudulent.
18. They both assert that their exclusion from the process violated their legal entitlement as children of the deceased. They express the belief that the 2<sup>nd</sup> respondent deliberately orchestrated their removal from the succession process in order to deprive them of their rightful inheritance.
19. For those reasons, they urge the Court, in the interest of justice, to revoke the grant of probate, invalidate the contested Will, and allow the estate to be distributed in accordance with the rules of intestacy so that all beneficiaries may be treated equally.
20. The response opposed the summons vide their replying affidavit dated 12<sup>th</sup> September 2024. They urge the Court to uphold the probate process already undertaken.
21. According to the 2<sup>nd</sup> respondent, the Will clearly expressed the deceased's intentions regarding the distribution of his estate. He maintains that every procedural step required by law was followed in obtaining both the grant and its confirmation.



22. He further deposed that following confirmation, the estate was transmitted to the beneficiaries strictly in accordance with the certificate of confirmation of grant. In his view, the administration process has therefore already been completed in line with the deceased's testamentary wishes and with the authority of the Court.
23. The 2<sup>nd</sup> respondent rejects the applicant's challenge to the Will and to the grant. He contends that the deceased was clear about how he wished his property to devolve and that those intentions should be respected. He argued that the applicant has not presented any lawful or evidential basis capable of upsetting a valid Will and a confirmed grant. To the contrary, he characterizes the grounds raised in support of revocation as unsubstantiated.
24. According to the 2<sup>nd</sup> respondent, setting aside the Will would disrupt the order the deceased deliberately created and would plunge the family into confusion and conflict. In his position, the testamentary scheme was meant to settle matters, not reopen them.
25. For those reasons, the 2<sup>nd</sup> respondent asks the Court to find that no sufficient cause has been demonstrated to warrant revocation. He therefore prays that the summons for revocation be dismissed and that the grant issued pursuant to the will remain undisturbed.
26. The parties were directed to canvass the summons by way of submissions. They duly complied.

### **Determination**

27. I have read and considered the summons, the rival affidavits and the submissions filed. The following issues arise for determination:
  - a. Whether sufficient basis has been laid to invalidate the will.
  - b. Whether the threshold under section 76 has been met to warrant revocation of the grant.
  - c. Whether orders for accounts or other protective relief are appropriate.

### **Whether sufficient basis has been laid to invalidate the will**

28. The applicant and the supporting deponents, Gurdev Singh Kenth and Bhagat Singh Kenth, contend that the deceased's will does not reflect the deceased's true wishes; that the deceased repeatedly expressed an intention to provide for all his children; that the will omitted several children; and that the will and the probate process were concealed from them. They further contend that the estate presented in the confirmation proceedings did not reflect the full estate, particularly in light of assets said to have been acquired after 1999 and before the deceased's death in 2013.
29. The respondents' position is that the deceased died testate; that the Will is valid; that the deceased had testamentary freedom; that the Will is clear on its face; and that no evidence has been tendered to impeach it.
30. A Will is not invalid merely because it distributes property unequally or because it disinherits a person who might otherwise have benefited in intestacy. The Court's task when asked to invalidate a Will is not to assess fairness, but to determine whether the Will is legally impeachable; for example, on grounds of lack of testamentary capacity, want of due execution/attestation, forgery, fraud, or undue influence.
31. In the present matter, the materials placed before the Court raise serious concerns about transparency in the probate process and possible concealment of material facts. However, on the narrow question of invalidating the Will itself, the evidence presented is largely circumstantial and inferential. The applicant and her siblings rely principally on (i) the deceased's alleged consistent oral statements that



he intended to provide for all children equally; (ii) their exclusion from the will and from the process; and (iii) the existence of assets acquired after the date of the will.

32. While such matters may properly trigger the Court's supervisory jurisdiction, they do not, without more, automatically invalidate a formally executed Will. A testator may change his mind, may make a Will that benefits only some persons, and may even omit persons who would otherwise be natural objects of his bounty.
33. Further, the fact that a Will was made in 1999 does not necessarily mean it is invalid because the deceased later acquired additional assets. Wills commonly contain general gifts and/or residuary clauses capable of passing after-acquired property. Even where a Will fails to capture later acquisitions, that circumstance may point to partial intestacy in respect of undisposed assets, rather than invalidity of the entire Will.
34. Put differently, assets acquired after the Will was made are a relevant factual question for administration and distribution. They may affect (a) whether the estate presented to the Court was complete; and (b) whether the Will disposed of the whole estate or left a residue undisposed. But the existence of later-acquired assets, standing alone, is not a legal basis to strike down the will.
35. Accordingly, I am not satisfied that, on the affidavit evidence presently before the Court, a sufficient basis has been laid to declare the Will invalid in the manner prayed. That prayer is therefore not available at this stage.

Whether the threshold under section 76 has been met to warrant revocation of the grant.

36. Section 76 of the [Law of Succession Act](#) provides for the threshold required for a grant to be revoked. It stipulates as follows:-

“A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion— (a) that the proceedings to obtain the grant were defective in substance; (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case; (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently; (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either— (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or (ii) to proceed diligently with the administration of the estate; or (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or (e) that the grant has become useless and inoperative through subsequent circumstances.”

37. From the pleadings and submissions, the applicant's case substantially invokes section 76(a), (b) and (d).
38. A central and undisputed factual anchor emerges from the record, that the respondents have not denied that the applicant, Gurdev Singh Kenth, and Bhagat Singh Kenth are biological children of the deceased. The respondents' opposition is not that these persons are strangers; rather, the respondents assert that a testator may disinherit and that the applicant is not a beneficiary under the Will.



39. I agree that testamentary freedom exists. However, testamentary freedom does not dilute the obligation of full and frank disclosure in succession proceedings. The existence of all surviving children of the deceased is a material fact in probate and confirmation proceedings because it bears upon, among other things:
- i. the integrity and transparency of the process;
  - ii. whether there are persons who may legitimately challenge the will or seek reasonable provision where applicable;
  - iii. whether there are disputes requiring the Court's directions before distribution; and
  - iv. The Court's ability to satisfy itself that the estate is being administered in a manner consistent with law.
40. The affidavits before the Court demonstrate that the applicant and the supporting deponents were not notified and were omitted from the succession narrative presented to the Court. The applicant's evidence is that she was repeatedly told nothing was happening; that she was denied documents; and that she only discovered the grant and confirmation much later. Gurdev and Bhagat similarly averred that they were excluded, denied access to the Will, and sidelined despite being children of the deceased. The respondents' replying affidavit does not squarely answer why these persons concededly children of the deceased, were not disclosed to the Court at the petition and/or confirmation stage.
41. This omission goes beyond a mere private family disagreement; it implicates section 76(b): concealment from the Court of something material to the case. The concealment need not be proved by direct admission; it may be inferred from the objective record of who was disclosed to Court and who was omitted, especially where the omitted persons are acknowledged children.
42. I therefore find that the Applicant has demonstrated a prima facie case that the process leading to the grant and/or its confirmation was attended by non-disclosure of material facts, namely the existence of other children of the deceased.
43. The applicant also contends that the estate presented in the confirmation proceedings did not reflect the true extent of the deceased's estate and that substantial assets acquired between 1999 and 2013 were omitted.
44. This is a weighty allegation. Executors and administrators have a duty to present the court with a true inventory of the free property of the deceased for purposes of administration, transmission and accountability. The allegation of later-acquired assets is consistent across the applicant's narrative and is tied to specific references (including business dealings and later developments). The respondents' submissions largely answer this by asserting that the Will is clear on assets and that the estate has already been transmitted, but they do not directly engage the claim that the estate may have been incompletely disclosed, and that assets acquired after the Will was made may not have been brought on board.
45. If the Will did not dispose of some later-acquired assets, those assets do not simply vanish from legal consideration. They would either fall under any general/residuary gift in the Will, or (where not covered) they would devolve under the rules of intestacy as undisposed residue. Either way, the Court must be satisfied that the whole estate has been candidly disclosed and properly administered. The allegation of omission, therefore, supports the applicant's argument of a process that may have been defective in substance under section 76(a), and/or a confirmation obtained without full disclosure.



**Whether orders for accounts or other protective relief are appropriate.**

46. The applicant also seeks accounts to determine what remains undistributed. The respondents’ position is that the applicant has no right to accounts as she is not a beneficiary under the Will. That response is unpersuasive at this stage for two reasons. First, section 76 allows an application by “any interested party,” and the applicant’s status as a biological child, a fact not controverted by the respondents, anchors her standing as an interested party in the estate. Second, where credible allegations are raised that material facts were concealed and assets omitted, the Court’s supervisory jurisdiction over estates is engaged, and accounts are an appropriate tool to establish what property comprised the estate, what has been transmitted, and what (if anything) remains.
47. Further, section 76(d)(iii) expressly contemplates revocation where a personal representative fails to produce inventories or accounts as required, or produces accounts that are false in any material particular. Given the allegations regarding undisclosed assets and administration, an order for accounts is necessary for the Court to determine the true state of administration.
48. The respondents emphasise that the estate was confirmed in 2017, and the present challenge is late. While delay is a relevant equitable consideration, especially where third-party transactions may have occurred, section 76 expressly provides that a grant may be revoked “at any time.” Delay, therefore, does not bar the Court’s jurisdiction, though it may affect the form of relief granted and the protective directions necessary to avoid injustice.
49. From the foregoing, I make the following orders:
- a. The Certificate of Confirmation of Grant of Probate issued on 8<sup>th</sup> February 2017 is set aside.
  - b. The executrix shall, within 30 days, file and serve a full inventory and account of the estate (including all assets acquired between 1999 and 2013 and the present status of each asset), together with a schedule of transmissions and any dealings undertaken pursuant to the confirmation.
  - c. Upon filing of the accounts, the matter shall be mentioned for directions on the mode of final distribution, including determination of whether any assets fall for distribution as undisposed residue/partial intestacy, and whether any further proceedings are necessary in relation to the Will.
  - d. Costs shall be in the cause.
50. Mention on 12<sup>th</sup> May, 2026.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF FEBRUARY 2026.**

.....  
**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. Ongwen..... for the Applicant

M/s Koki..... for the Respondents

Gisiele Muthoni .....Court Assistant

