



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAKURU**

**SUCCESSION CAUSE NUMBER 60 OF 1996**

**IN THE MATER OF THE ESTATE OF THE LATE  
JAMES KIARIE KAHUNGURA (DECEASED)**

**CAROLINE WANGUI THIONGO -----  
APPLICANT**

**RULING**

1. For determination is a Summons dated 11<sup>th</sup> March 2025 for Revocation of the Grant herein issued on 9<sup>th</sup> February 2004 to Rahab Njeri Kiarie (deceased). The Applicant thereafter wants the Grant to be issued to her and that the costs of the Application be in the Cause.
2. By Affidavit in support of the Summons, the Applicant states that she is one of the beneficiaries of the

Estate subject of these proceedings. Further stating that she has been authorised by her sisters (Ann Njoki & Alice Waithera) to swear this affidavit on their behalf as well, the Applicant avers that the Grant that was issued to their mother was confirmed on 9/2/2004. It is contended that none of the children of the deceased were present during confirmation of the Grant and neither was a written consent of Beneficiaries filed.

- 3.** Consequently, the Applicant laments that she and her sisters did not benefit from the Estate despite having equal rights as their siblings, Teresia Wairimu Kiarie and Sammy Mburu Kiarie, who got shares over plot No. Njoro/RN 38602 Eriithia.
- 4.** The Applicant further avers that upon advice of their Legal Counsel, the Grant in the name of their deceased mother, in any event, became in-operative following her demise on 21/10/2017.

5. For the foregoing reasons *inter alia*, the Applicant craves the orders prayed for.
  
6. One Sammy Mburu opposes the Application *vide* an affidavit in reply purported to have been sworn on 19<sup>th</sup> September 2025. He avers that pursuant to his Application dated 7<sup>th</sup> June 2024, the court, by Ruling delivered on 21/2/2025, revoked and/or cancelled the rectified Certificate of Confirmation of Grant herein dated 28<sup>th</sup> July 2022. Among other orders, the court also directed that in the absence of agreement of beneficiaries the Certificate of Confirmation of Grant dated 9<sup>th</sup> February 2004 would stand.
  
7. The deponent continues to contend that the Applicant has not appealed the Ruling. According to him, the Certificate of Confirmation of Grant dated 9<sup>th</sup> February 2004 was regularly and procedurally issued and there is no basis for its revocation. The court is told that the Applicant did in fact sign a consent

dated 30<sup>th</sup> October 2003 in respect of confirmation of Grant herein on 9/2/2004.

- 8.** The Respondent therefore wants the Estate to be transmitted according to the Certificate of Confirmation of Grant dated 9<sup>th</sup> February 2004.
- 9.** No evidence in rejoinder has been offered.
- 10.** Only Counsel for the Applicant seems to have put in submissions which I have perused against the Application and the record.
- 11.** The Application before the court does not name a Respondent(s) thereto. The said Sammy Mburu is a co-Administrator of the Estate and was the Applicant in the Application dated 7<sup>th</sup> June 2024 alluded to hereinabove. He appears to have reacted to this Application as a Respondent.
- 12.** Grant of Letters of Administration issued on 1/7/1997 has already been revoked and issued to the Applicant and the Respondent jointly. It is not argued that the

Respondent was fraudulently appointed as co-Administrator. There is therefore no basis to issue the Grant solely to the Applicant.

**13.** There is no prayer for the Applicant to be given a share on the ground of having been excluded. The Applicant only seems to make this prayer in her affidavit evidence in support of the Motion.

**14.** In the circumstances, I decline to determine the Application on its merits. Instead the same is struck out with no order as to costs.

**J. M NANG'EA, JUDGE.**

**Ruling dated, signed and delivered virtually this 4<sup>th</sup> day of March, 2026.**

**In the presence of:**

1<sup>st</sup> Administratrix Advocate, Mr. Njoroge

2<sup>nd</sup> Administrator's Advocate, Mr. Njoroge for Mr. Mwangi

Court Assistant (Mr. Ng'eno)

**J. M NANG'EA, JUDGE.**