



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Mganga (Deceased) (Succession Cause E003 of 2024)  
[2026] KEHC 2913 (KLR) (27 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2913 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
SUCCESSION CAUSE E003 OF 2024**

**A MSHILA, J**

**FEBRUARY 27, 2026**

**BETWEEN**

**ANN WAIRIMU NJUGUNA ..... APPLICANT**

**AND**

**JANE NJERI NJUGUNA ..... RESPONDENT**

**RULING**

1. The Applicant herein Ann Wairimu Njuguna filed the Chamber Summons dated 14<sup>th</sup> March, 2025 and brought under Rule 76 of the Probate & Administration Rules for orders ;-
  - a. Spent
  - b. That the Grant of Letters of Administration Intestate given to the Administrator/Respondent Jane Njeri Njuguna on 15<sup>th</sup> July, 2024 be revoked.
2. The application is based on the grounds that the proceedings to obtain the grant were defective in substance, that the Respondent obtained the grant fraudulently by concealment of material facts and lastly that the administrator has failed to proceed diligently with the administration of the estate.
3. In her affidavit in support of the Chamber Summons, the Applicant deposed that she is the co-wife of the deceased together with the Administrator. The administrator failed to include her as a co-administrator and also failed to serve her with the Petition. The administrator was accused of failing to take any steps to consolidate the assets of the deceased. Further, the administrator was said to have concealed that she had benefited through gift intervivos during the lifetime of the deceased as such the grant was obtained through concealment of facts.
4. Jane Njeri Njuguna filed her replying affidavit dated 7<sup>th</sup> March, 2025 where she deposed that she is the widow and the administrator of the deceased's estate herein having been issued with the grant of letters of administration intestate on 15<sup>th</sup> July, 2024. She contended that the grant herein was obtained



lawfully. She denied that the Applicant is her co-wife as the Applicant was not legally married to the deceased herein. She was married to the deceased on 11<sup>th</sup> September 1982. The Applicant was included in the citation and further that the Applicant was fully aware of the succession proceedings as she was duly notified whereby she instructed an advocate as such cannot turn around and challenge the grant. The Respondent denied concealing any material facts and that she has been diligent in the administration of the estate. The court was urged not to revoke the grant as administration is at an advanced stage.

5. The parties were directed to canvass the application by way of written submissions.

### **Applicant's Submissions**

6. The Applicant submitted that the administrator did not approach her to sign the necessary documents. She stated that together with her son they are recognised as beneficiaries of the estate as per the Chief's letter and that the administrator does not recognize that fact and wants to remove them from the estate. The administrator was said to have failed to administer the estate diligently and to have obtained the grant by the concealment of some beneficiaries. Reliance was placed in the case of *Lalita Devi Lalchand Galot vs Mohan Galot (2020) KECA (KLR)*.

### **Respondent's Submissions**

7. The Respondent submitted that failure by the citor to co-operate affords an opportunity to the citee to take up letters of administration as in the order dated 31<sup>st</sup> October, 2023 allowing the filing of this Succession Cause which order has not been reviewed. The allegations by the Applicant that the grant was obtained fraudulently is said to be unsubstantiated as the same has not been proved. Reliance was placed in the case of *In Re estate of Samwel Muiruri Nganga (deceased) (Succession Cause E088 OF 2013) (2025) KEHC 179 (KLR) (20 January 2025) (Judgment)*. The Applicant was said to be a concubine of the deceased as such she is misleading the court by stating that she is a widow of the deceased and was only cited as some properties are in the joint names of the Applicant and the deceased. It was submitted that the letter by the chief cannot be used as the basis to determine the rightful beneficiaries. The application herein was said to lack merit as there is no evidence to show that the administrator failed to diligently administer the estate.

### **Issues For Determination**

8. Having considered the Summons, the replying affidavit and the parties' submissions, the main issue arising for determination is whether the grant herein should be revoked.

### **Analysis**

9. The *Law of Succession Act* provides for revocation or annulment of grants under section 76, which states 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.”
10. The Applicant is seeking revocation of the grant of letters of administration intestate issued to the administrator on 15/07/2024 on the grounds that the proceedings to obtain the grant were defective in substance, that the Respondent obtained the grant fraudulently by concealment of material facts and that the administrator has failed to proceed diligently with the administration of the estate.
11. In re Estate of Prisca Ong’ayo Nande (Deceased) (2020) eKLR in expounding Section 76 it was stated that:-

“Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”

12. The Applicant herein submits that the administrator did not approach her to sign the necessary documents and that the estate is not being administered diligently.



13. The administrator on the other hand states that the Applicant was included in the citation and was fully aware of these proceedings as such cannot challenge the grant. The administrator contended that she is administering the estate diligently.
14. The Applicant herein has applied to this Court for the grant of letters of administration issued to the Respondent be revoked.
15. In the case of *In re Estate of Prisca Ong'ayo Nande (Deceased)* (supra) the court therein stated that one of the grounds that could cause a grant of letters of administration to be revoked was if the process to obtain the grant was defective.
16. A perusal of the record demonstrates that the administrator herein filed a citation being Succession Cause No. E056 of 2023-Kiambu compelling the Applicant to participate in the administration process. The Applicant entered appearance and there is evidence of correspondence between the two advocates.
17. It is also on record that the Applicant failed to respond to the citation and the administrator herein was directed to Petition for letters of administration on 31/10/2023 which gave rise to this succession cause.
18. In the circumstances, this Court finds that the process in obtaining the grant herein was not defective as alleged by the Applicant.
19. Further the Applicant claims that, that the Respondent obtained the grant fraudulently by concealment of material facts.
20. The administrator is accused of obtaining the grant fraudulently by concealing that the Applicant is a beneficiary of the deceased's estate having being listed on the letter by the Chief identifying the deceased's beneficiaries.
21. There is evidence on record that the Applicant was included in the Petition filed by the administrator and dated 28<sup>th</sup> December, 2023.
22. Allegations of fraud are serious allegations that should be proved with certainty and the Applicant herein failed to do so.
23. In the circumstances, this ground of revocation fails as there is no fraud and/or concealment of material facts found by the court during the appointment of the Respondent as the administrator of the estate herein.
24. Lastly, the Applicant avers that the administrator has failed to proceed diligently in the administration of the estate of the deceased.
25. However, the Applicant has not placed any evidence before this court to demonstrate how the administrator is mis-managing the deceased's estate and/or misusing her role as an administrator.
26. Refer to the cases of *In the matter of the estate of Mohamed Mussa Mombasa High Court Succession Cause No. 9 of 1997* and in the matter of the estate of Elizabeth Wamaitha Ngaruiya (deceased) Nairobi Succession Cause 2499 of 2001.
27. In the upshot, the court is not satisfied that the Grant of Letters of Administration Intestate given to the Administrator/Respondent Jane Njeri Njuguna on 15<sup>th</sup> July, 2024 should be revoked.

### **Findings And Determination**

28. For the forgoing reasons this Court makes the following findings and determinations;



- i. This Court finds that the application is devoid of merit and it is hereby dismissed.
- ii. This being a family matter there shall be no order as to costs.
- iii. Mention 10/06/2026 for directions on Confirmation of Grant.

Orders Accordingly.

**DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 27TH FEBRUARY, 2026.**

**A. MSHILA**

**JUDGE**

In the presence of;

Sanja- Court Assistant

Gichuki – Administrator/Respondent

Macharia – h/b for Kariuki – for Applicant

