



REPUBLIC OF KENYA



Muiruri & another (Appointed by Charles Muru Muiruri, Pancrass Muiruri Njoroge, Jane Njeri Wahinya & Lawrence Muiruri Wangari) v Ngugi (Succession Cause E035 of 2025) [2026] KEHC 2722 (KLR) (27 February 2026) (Ruling)

Neutral citation: [2026] KEHC 2722 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
SUCCESSION CAUSE E035 OF 2025
FN MUCHEMI, J
FEBRUARY 27, 2026**

**IN THE MATTER OF THE ESTATE OF TERESIA WAITHIRA
MUIRURI ALIAS TERESIA WAITHERA (DECEASED)**

BETWEEN

MATHEW KAMAU MUIRURI 1ST APPLICANT

TERESIA WAITHIRA MURU 2ND APPLICANT

**APPOINTED BY CHARLES MURU MUIRURI, PANCRASS MUIRURI
NJOROGE, JANE NJERI WAHINYA & LAWRENCE MUIRURI WANGARI**

AND

PATRICK NGUGI RESPONDENT

RULING

Brief Fact

1. The application dated 4th August 2025 seeks for orders of transfer of Thika CM Succession Cause No. 90 of 2020 to this court as the estate is valued at Kshs. 500million which is beyond the monetary jurisdiction of the Magistrates' court.
2. The application is unopposed.

Applicants' Case

3. The applicants state that in their petition dated 9th July 2025 have pleaded that the assets belonging to their deceased mother, are valued at Kshs. 500 million. This value is beyond the monetary jurisdiction of the Chief Magistrate's Court where it was filed as Succession Cause No. 90 of 2020. The said Chief Magistrate Court lacks the jurisdiction to determine the said cause. The respondent in his petition had



indicated the value of the estate as Kshs. 15 million. The applicants further state that they were not served with the respondent's petition dated 23rd July 2020.

4. The applicants further state that the grant of letters of administration issued to the respondent dated 28th December 2020 and the defective certificate of confirmation dated 14th December 2021 be revoked on the grounds that the estimated value of the 11 assets was misrepresented as Kshs. 15 million while the market value of 1 acre within LR. No. 7240/33 is between Kshs. 20 million to 28 million while the market value of the entire LR. No. 7240/33 measuring 17.87 Ha is Kshs. 707.2 million.
5. The applicants further pray that the grant issued to the respondent be revoked as it was obtained fraudulently by making false statements and concealment from the court of their existence who are sons of the deceased. The applicants further argue that the estate of the deceased was selfishly distributed amongst three beneficiaries thus omitting six beneficiaries. Further, the respondent did not include all the assets of the deceased and they therefore remain un-administered.
6. The applicants argue that they should be appointed joint administrators as proposed in the consent to apply for letters of administration dated 9th July 2025.
7. Parties put in written submissions.

The Applicants' Submissions

8. The applicants relies on Section 7 of the Magistrate's Court Act and Section 18(1) of the Civil Procedure Act and submit that the magistrate court did not have jurisdiction to hear the succession cause as the estate is valued at Kshs. 500 million.

The Law

9. It is clear that unlike Section 18 of the Civil Procedure Act which expressly donates to the High Court power to withdraw and transfer suits, the Law of Succession does not expressly do so. However, Section 47 of the Law of Succession Act and Rule 73 of the Probate and Administration Rules donate to the High Court wide inherent powers to issue any necessary orders in succession or probate matters.
10. According to the applicants, the Chief Magistrate court lacks the pecuniary jurisdiction to hear and determine the administration of the estate of the deceased. The applicants argue that the estate is valued at Kshs. 500 million and not Kshs. 15 million as was portrayed in the magistrate's court and therefore the matter ought to be transferred to the current court.
11. The issue of jurisdiction is a fundamental one as was held in the case of Owners of the Motor Vessel "Lillian S" v Caltex Oil (Kenya) Ltd (1989) eKLR, the Court of Appeal held:-

"Jurisdiction is everything. Without it, a court has no power to make one step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction."
12. The grant in the lower court was issued on 28th December 2020 and confirmed on 14th December 2021. Therefore the matter has already been determined and the estate distributed. The applicants have brought the present application as beneficiaries of the estate who were left out. The Magistrate's court has power to revoke a grant issued and even confirmed by the court provided the applicants present grounds recognized by the law and support them accordingly. As for the issues of transfer, the Chief Magistrate has power pursuant to Rule 40(9) of the Probate and Administration rules to transfer the suit to the High Court for disposal if she is satisfied that there are good reasons to do so.



13. The applicants have further argued that the grant issued to the respondent ought to be revoked. Section 48(1) of the *Law of Succession Act* was amended on January 2016 by dint of Section 23 of the *Magistrates' Court Act* 2015 to confer jurisdiction upon the Magistrate's courts to revoke grants issued by themselves contrary to the earlier position where only the High Court could do so. *In Re Estate of Charles Boi (Deceased)* [2020] eKLR, Musyoka J held:-

“The taking away of jurisdiction from the High court with respect to revocation of grants, made by the magistrate's court would mean that the High Court no longer has original jurisdiction to address that issue, and that its jurisdiction, over the issue, would be as an appellate court from a ruling of the magistrate's court, on summons for revocation of the grant issued by that court. I have no jurisdiction, therefore, sitting as a High Court, to entertain summons for revocation of grant where the applicant has not filed such application at the magistrate's court in the first instance, since the *Law of Succession Act*, as currently framed, does not vest me with jurisdiction. Secondly, the issue of revocation of the grant made by the magistrate's court has not been placed before me in invocation of my appellate jurisdiction.”

14. Consequently, it is my considered view that the applicants ought to have filed the present application before the magistrate's courts where the grant was issued to seek revocation of the grant and to apply for transfer for want of jurisdiction before the cause was heard. If this was done, it would present the parties with a window to proceed on appeal to the High Court should they not be satisfied with the final judgment of the magistrate's court.
15. Accordingly, I find no merit in the application dated 4th August 2025 and hereby dismiss it with no order as to costs since this is a family matter.
16. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 27TH DAY OF FEBRUARY 2026.

F. MUCHEMI

JUDGE

