



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**SUCCESSION CAUSE NO. 721 OF 1992**  
**IN THE MATTER OF THE ESTATE OF THE LATE MZEE ALI**  
**TAJIRI (DECEASED)**

**ASHA MZEE ALI ..... 1<sup>ST</sup>**  
**APPLICANT**

**RUKIA NJOKI ..... 2<sup>ND</sup>**  
**APPLICANT**

**TIBA ALI ..... 3<sup>RD</sup>**  
**APPLICANT**

**ADIJA NYAGAKI ..... 4<sup>TH</sup>**  
**APPLICANT**

**ALI MZEE ALI ..... 5<sup>TH</sup>**  
**APPLICANT**

**VERSES**

**MARINDA FATUMA MZEE .....  
RESPONDENT**

**RULING**

1. This ruling is in respect to the application dated 31<sup>st</sup> October 2024 by the Applicant's seeking the following orders:-
  - (a) Pending the hearing and determination of the application a temporary order be issued restraining

the Respondent from collecting rental income from the deceased estate properties namely LR No. 209/4401/130 Makadara housing Estate and Block C1036/VII/646 and Block C10/36/VII/647 referred to as California house.

(b) Pending the hearing and determination of the application the Respondent be called to account for all rental income collected from the above Makadara and California houses.

(c) Pending the hearing and determination of the application all income from the above rental houses be deposited in court and or a joint interest earning account.

2. The application is based on the grounds thereof as well as the sworn affidavit of Tiba Ali dated the same date.
3. The Applicant who is a beneficiary of the estate herein swore the affidavit on her own behalf and the rest of the Applicants.
4. The Applicant challenges the grant issued to the Applicant arguing that the assets mentioned above have been interfered with by the Respondent and specifically all that she has been doing is collecting rent from the said premises without accounting to them.
5. Consequently, they pray for this Court's intervention through issuing the injunctive reliefs they have sort.
6. The Respondent vide her replying affidavit sworn on 30<sup>th</sup> May 2025 has given chronology of the events in this

estate. She has deponed that the matter has been in Court for the last 31 years and that the Applicants have all along been in the picture.

7. That she has even transferred LR No. 209/4401/130 to the Applicants out of her own volition despite the deceased bequeathing her the same. The Applicants have however failed to transfer the same to themselves something which she has no control of.
8. She further accused the Applicants of bringing this matter 31 years after the filling of this cause and several years after the grant was confirmed.
9. The court has perused the entire proceedings herein as well as the submissions
10. In a separate ruling I have made herein, I denied the Applicants application to revoke the grant as well as setting a side the Will for the simple reason that they did not disclose reasonable grounds.
11. The prayers herein do not challenge the two documents but instead are asking for reliefs which can easily be given or denied by the Environment and Land court. They are not asking for any revocation of the grant and to the extent that the estate was distributed this court became *functus officio* and the recourse lies elsewhere.
12. The issue of rent collection or not falls within the purview of the Rent Dispute Tribunal or any other forum but not the family court.

13. **Without therefore going into other issues raised therein I do not respectfully find the application meritorious and dismissed it with costs to the Respondent.**

**Dated signed and delivered at Nairobi via video link  
this  
19<sup>th</sup> day of March 2026.**

**H K CHEMITEI  
JUDGE**