



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYANDARUA

FAMILY PROBATE & ADMINISTRATION NO. E006 OF 2023

IN THE MATTER OF THE ESTATE OF:

JOSEPH MWAURA KAHIRO alias JOSEPH M. KAHIRODECEASED

BETWEEN

PETER KIRUTHI MWAURA.....1ST APPLICANT

JECINTA WANGARI MWAURA.....2ND APPLICANT

MARGARET MURUGI NYANJUI.....3RD APPLICANT

LUCY WANGUI MWAURA.....4TH APPLICANT

ESTHER WANJIKU WAWERU.....5TH APPLICANT

TERESIAH WANJA MWAURA.....6TH APPLICANT

AND

RUTH WAMBUI MWARUA1ST ADMINISTRATOR/RESPONDENT

SIMON KAHIRO MWAURA2ND ADMINISTRATOR/RESPONDENT

RULING

1. The applicants herein moved the court by way of summons for revocation of the grant dated the 2nd day of May 2024. The application was brought under section 76 of the Law of Succession Act & Rules 44 & 73 of the Probate and Administration Rules. They were represented by Wangechi Chege & Company Advocates. The application is premised on the following grounds:

- a) The proceedings to obtain the said grant issued on the 11th day of March 2024 were defective in substance.
- b) The administrators/respondents herein, who are some of the beneficiaries of the estate of the said Joseph Mwaura Kahiro alias Joseph M. Kahiro (deceased),

petitioned for the grant of letters of administration to the estate of the deceased and the same were granted to them on the 11th Day of March 2024.

- c) The said Joseph Mwaura Kahiro, alias Joseph M. Kahiro (deceased), passed away on the 19th Day of October 2022.
- d) After his passing, a meeting of the beneficiaries of his estate, including the applicants and the respondents herein, was called to forge a way forward for his estate.
- e) The family agreed on a way forward, which was in accordance with the wishes of the deceased.
- f) However, and to the utter dismay of the entire estate of the deceased, Simon Kahiro Mwaura, the 2nd respondent herein, went on to fraudulently and maliciously initiate succession proceedings to the estate of the deceased, in total contravention of what was agreed in the family meeting.
- g) Furthermore, Simon Kahiro Mwaura subtly included the respondent's mother, Ruth Wambui Mwaura, who is very ill and unable to act, as his co-petitioner, seemingly to conceal his actions.
- h) The said Simon Kahiro Mwaura and the said Ruth Wambui Mwaura, as co-petitioners, went on to petition for the grant of letters of administration to the estate of the deceased, and on the 11th Day of March 2024, the letters of administration were issued to them.
- i) We only learnt of the said proceedings after the grant of representation was issued to the respondents herein, and we immediately commenced the subject proceedings.
- j) As some of the beneficiaries are rightfully entitled to the estate of the deceased, we were not consulted, and neither was our consent sought when the respondents were petitioning for the grant of the letters of administration to the estate of the deceased.
- k) We did not delay and/or refuse to take out the said letters of administration to the estate of the deceased. which is evidenced by the fact that we were not cited.
- l) We are apprehensive that the procurement of the grant of representation in total exclusion of the other beneficiaries is a play to disinherit some of us, if not all of us.

- m) It is therefore imperative and in the interest of the beneficiaries and the entire estate of the deceased that the irregularly obtained grant of representation issued on the 11th Day of March 2024 be revoked.
- n) The exclusion of the applicants herein and the concealment of material facts from this honourable court is not accidental but a malicious and elaborate attempt by the administrators/respondents to disinherit and disadvantage some of the entitled beneficiaries of the said estate.
- o) The grant of letters of administration to the estate of the deceased was obtained fraudulently by the concealment from the court of all of the material facts relating to the estate of the deceased,
- p) The administrators/respondents herein misled the court in the petition for grant of letters of administration to the detriment of the applicants and other rightful beneficiaries of the estate of the deceased.
- q) It is therefore right and just that this honourable court does revoke the grant as prayed to consider all the persons entitled to the estate.

2. The 2nd respondent opposed the application on the following grounds:

- a) Ruth Wambui Mwaura is the widow of the deceased and the mother of the applicants.
- b) The application is riddled with falsehoods.
- c) That all beneficiaries of the deceased are listed in the affidavit in support of the petition.
- d) Peter Kiruthi has been a troublemaker since the death of the deceased, including the destruction of trees and the sale of livestock.
- e) The summons is made to defeat the administration of the estate.

3. From the submissions of the 2nd respondent/administrator, the 1st administrator/respondent passed away on the 2nd day of February 2026.

4. This is a family that lacks trust in each other. Partly, this is the reason that since the 11th day of March 2024, when the impugned grant was issued, no steps have been taken by the administrators to facilitate the distribution of the estate.

5. Recently, on the 25th day of June 2025, this matter was referred to mediation, but the attempt flopped.

6. Given the circumstances, the estate distribution cannot be finalized until the family revisits their approach. Consequently, this necessitates revoking the grant. I therefore revoke the grant and direct that the family sit and nominate an administrator or administrators whom they can agree on within 30 days.
7. This order compromises the application dated 25th September 2024. Anyone dealing with the estate, unless they are appointed as an administrator, will be intermeddling with the deceased's estate.
8. Since this is a family matter, each party will bear its costs.

Delivered and signed at Nyandarua, this 19th day of March 2026

KIARIE WAWERU KIARIE

JUDGE