



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. 1399 OF 2023
IN THE MATTER OF THE ESTATE OF THE LATE WAIGUCHU
MURUKI (DECEASED)

**GILBERT MURUKU WAIGUCHU
APPLICANT**

VERSES

**ESTHER WANJIRU WACHIRA 1ST
RESPONDENT**

**DOROTHY NJAMBI WAIGUCHU 2ND
RESPONDENT**

RULING

1. This ruling is in relation to the Applicant's Amended Summons dated 28th February 2025 in which he prays for orders that the grant of letters of administration and the confirmation thereof dated 15th July 2024 and 27th January 2025 respectively be revoked on the grounds *inter alia* that the same were obtained by concealment of material facts and were obtained without the Applicant's involvement.

2. The substratum of the said application is the grounds thereof and the sworn affidavit dated the same date.
3. Basically, the Applicant is claiming to be the son of the deceased and or beneficiary of the estate having been identified in the deceased Will dated 30th June 1997 as well as other legal documents.
4. According to the said will he was entitled to 19% of the estate. He has attached a copy of the same.
5. The Respondents have vehemently opposed the application vide the replying affidavits date on record in which they argued that the alleged will was a creation of the Applicant and that it was not prepared by the deceased.
6. In the cause of this matter the parties agreed that the Applicant be subjected to a DNA exercise which he did and the report indicates that he had no biological relations with Lisa Mugure Waiguchu.
7. I have perused the various rival affidavits by the parties together with the submissions carefully.
8. The only issue which troubles my mind is whether the deceased indeed left a valid written Will. I have perused the one presented to court which is a copy and not very legible probably because it is a soft copy.
9. It will in my view be remiss if it is to be ignored as submitted by the Respondent. Whichever way I find it better to have it presented by the Applicant and be

subjected to rigorous examination by the Respondents and to allay any fears that it did or not originated from the deceased.

10. I do not see any harm to be suffered by either of the parties save of course the usual time spent over the litigation. This however are the results of such disputes which in the long run must be taken into account.
11. It appears on the face of the said Will that the deceased spent much of his time in the United States of America and it appears the said Will was prepared there. It is incumbent upon the Applicant who has alleged to prove that indeed it was prepared by the deceased and thus the same must be relied on by the court.
12. In short, he must demonstrate that the deceased died testate.
13. It is unreasonable at the moment to revoke the grant issued to the Respondents. Let them proceed to administer the estate but will not transfer any capital assets of the estate. They should proceed to collect the same and preserve awaiting the determination of the objection herein.
14. The court is also alive to the Respondent's application dated **5th August 2025** between them and one **John Muruiki Kibuchi**. The same is uncontested.
15. I do not see any prejudice the estate will suffer if the said application is allowed for the simple reason that the

Applicants will still hold the said African Variety (1995) Limited as well as LR NO. 1160/346 (original 1160/31/6) on behalf of the estate pending the final determination of the above Applicant's application.

16. Consequently, the court directs as follows:

- (a) There be stay of the grant issued on 15th July 2024 and confirmed on 27th January 2025 pending the hearing and determination of the objection proceedings by the Applicant.**
- (b) The Applicant is hereby granted leave to file and serve objection proceedings within 30 days from the date herein and surrender to the court the alleged original deceased Will dated 30th June 1997 and in default the objection shall be deemed abandoned.**
- (c) Upon being served the Respondents shall file and serve any responses within 14 days after service.**
- (d) The parties shall within the above time frames be at liberty to file any further affidavits and or witness statements and serve each other.**
- (e) John Muruiki Kibuchi is hereby directed to surrender to the Respondents' original title deed for land parcel number 1160/346 (original 1160/31/6) and further surrender the one (1) share he holds in African Variety (1995) Limited by signing the necessary transfer**

documents as prayed under prayers (3) of the application dated 5th August 2025 forthwith.

(f) Costs shall await the outcome of the cause.

**Dated signed and delivered via video link at Nairobi
this 19th March 2026.**

**H K CHEMITEI
JUDGE**