

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

SUCCESSION CAUSE NO.E094 OF 2025

IN THE MATTER OF THE ESTATE OF THE LATE JOSEPH MWAURA

NJONGE(DECEASED)

FRANCIS NGUGI MWAURA.....APPLICANT

VERSUS

ALICE NYAMBURA NDUNGU.....RESPONDENT

RULING/ ON DIRECTIONS

1. When this matter came up for mention on 27th November, 2025, and it was noted that there are three applications pending determination before the court, being:-

a) Summons for Revocation of Grant dated 11th September, 2025 filed by Francis Ngugi Mwaura.

b) The application dated 2nd October, 2025 by ALICE NYAMBURA NDUNGU seeking special grant to withdraw some monies from the deceased's bank account for maintenance of her children.

*c) Another application dated 2nd October, 2025 also filed by
ALICE NYAMBURA NDUNGU seeking preservation of
the Estate particularly rental income from the properties.*

2. According to counsel for the Applicant (Francis) in the 1st application, the Respondent (Alice) and Applicant in the subsequent applications, the court directed that she serves her said applications but the same was done so late in time that he had not managed to file a response. Counsel then sought for more time to enable him file their response. And court in respect to his application, the Applicant's counsel has alleged that the Respondent filed and served them with an incomplete Replying Affidavit and should be directed to serve the complete one. He proposed that given that the applications are related, wherein the issues raised by either party are intertwined, they should be heard and determined simultaneously by way of *viva voce* evidence, so that the contested issues are properly resolved. Further, counsel for the Applicant stated there is one issue in respect to the property known as **Kijabe/Kijabe/Block 1/6266** which was transferred from the Deceased to the Respondent, **Alice Nyambura Ndungi** two months after death of Deceased and seeks orders that the **Land Registrar in Naivasha** be ordered to produce the transfer and Land Control Board application forms that were used to effect the said transfer on 27th February,

2020 for purposes of authentication by the DCI Naivasha since the Applicant claims that the transfer was fraudulent and signatures disputed hence the need to compare with known signatures of the Deceased.

3. In response, the Respondent's Counsel stated that the Replying Affidavit was served via email as a complete document. She indicated that she has annexed photographs of the parties dowry session and a video showing the ceremony amongst other evidence and thus maintains that the Respondent is a wife to the Applicant and her children were maintained by the Deceased. Counsel for the Respondent confirmed that they were agreeable to the matter proceeding by way of *viva voce* evidence so that each party can avail evidence and documents in support of their respective cases. She was however not agreeable to the consolidation of the matters as the issues are different in that in her applications, the Respondent is seeking for orders that all the rental proceeds from the two Commercial Plots belonging to the Deceased be deposited into his account and for a special grant for the maintenance of the children, while the Applicant/Respondent has sought for a declaration on whether or not the Respondent was a wife to the Deceased.
4. In rejoinder, the Applicant's Counsel stated that the Respondent had delayed to serve the applications which hindered them from filing their

response on time and he needs to do so, so that the matter can be heard on merit. He has also urged that he be served with the complete Replying Affidavit again as what he was served with only extends to **Paragraph 17**. He further contends that from all the applications, the court needs to establish whether the Respondent is a wife to the Deceased or not and whether her children are children of the deceased, before it can issue the preservative and maintenance orders she has sought in the two applications.

5. Having heard both Counsel for the parties and having noted their respective sentiments in respect of the three(3) pending applications, the court has considered the same and proceeds to direct that:-

a) The Respondent (Alice) to serve the complete Replying Affidavit upon the Applicant within three (3) days from the date of this ruling.

b) The Applicant (Francis) shall file and serve a response to the Respondent's two (2) applications within fourteen (14) days from the date of this ruling.

c) The three applications to be canvassed simultaneously by way of viva voce evidence.

d) Mention on 16th April, 2025 for parties to confirm compliance

and take directions on hearing date.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU
THIS 25TH DAY OF MARCH, 2026.**

D. O. CHEPKWONY

JUDGE

In the presence of

Mr. Banja counsel for Administrator, Francis Ngugi Mwaura

M/S Muthoni holding brief for Mr. Ngaruiya counsel for Administrator, Alice
Nyambura Ndungu.

Court Assistant - Martin