

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 152 OF 1993

IN THE MATTER OF THE ESTATE OF GEDION RIMBERE

ALIAS GEDION M'RIMBERE (DECEASED)

CHARLES KIRIINYA.....PETITIONER

VERSUS

CATHERINE MWARI MUREITHI.....RESPONDENT

**KENNETH MUGAMBI KIRINYA (Suing on his own behalf and on
behalf of the estate of Charles Kiriinya (Dcd).....**

....APPLICANT

RULING

1. For determination is the Summons for revocation of grant dated 13/1/2025 under **Section 76 (d) (e) of the Law of Succession Act**, seeking that:

1. Spent

2. The certificate of confirmation of grant issued on 11/11/2019 to Charles Kiriinya (now deceased) & Catherine Mwari Mureithi vide judgment of 19/09/2019 be revoked.

3. The applicant herein, as legal representative of Charles Kiriinya, be appointed as co-administrator

to represent one house of the late Gideon Rimbere in a fresh grant to be issued by this Honourable Court.

2. The application is premised on the grounds that the certificate of grant in this cause was issued on 11/11/2019 to the petitioner (now deceased) and the respondent via the judgment of Justice F. Gikonyo dated 19/09/2019. The respondent has failed/neglected to complete distribution of the estate, and by dint of section 76 of the Law of Succession Act, the death of the petitioner rendered the grant useless and inoperative.

3. The respondent swore a replying affidavit on 1/7/2025 in opposition to the application. She averred that the Shares at ICDC Investment Co. Ltd/Centrum, were distributed equally to Robert Bundi Rimbere, Geoffrey Mugambi Rimbere, and Charles Kiriinya Rimbere. In her view, the estate has been fully distributed save for Thege Market Plot No. 6A, which was awaiting approval of transfer by

the Board of Physical Planning, and there was no grievance to raise, nor could any issue left unresolved now be properly pursued by the applicant. The application was thus an afterthought and a

glaring abuse of the court process. There exists no vacancy in the office of the administrator, as rightly affirmed by Justice Muriithi, in his ruling dated 27/2/2025.

4. The applicant swore a further affidavit on 21/10/2025 in support of the application.

5. The application was canvassed by way of written submissions, which were duly filed by counsel.

Disposition

6. Having considered the application, the affidavits, the submissions on record and the authorities relied on, I find the issue for determination to be whether it is merited.

7. **Section 76 of the Law of Succession Act** stipulates that a grant of representation, whether or not confirmed,

may at any time be revoked or annulled, either on application by any interested party or of its own motion if:

“(a) that the proceedings to obtain the grant were defective in substance; (b) that the grant was obtained

fraudulently by the making of a false statement or by the concealment from the court of something material to the case; (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently; (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or (ii) to proceed diligently with the administration of the estate; or (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and

(g) of section 83 or has produced any such inventory or account which is false in any material particular; or (e) that the grant has become useless and inoperative through subsequent circumstances.”

8. The quest for the revocation of the grant is predicated on the death of the petitioner and the alleged failure by the respondent to complete administration of the estate.

9. In rejoinder, the respondent filed a final report and account of the administration of the estate dated 27/10/2025, evincing that the distribution of the estate had since been fully undertaken.

10. This court (*Mureithi J*) addressed the question whether the death of the petitioner rendered the grant inoperative, vide its ruling dated 27/2/2025 as follows, **“Section 81 of the Law of Succession Act is a self-**

executing provision which empowers a surviving administrator to complete administration of an estate...This court finds that the death of Charles Kiriinya did not create a vacuum in administration of the estate, because the co-administrator, the Respondent herein, aptly took up the mantle, in accordance with her duties under section 83 of the Law of Succession Act.”

11. I find that the application, though ostensibly presented as one for the revocation of the grant, substantially seeks to relitigate issues which have been conclusively determined by this court, thereby offending the doctrine of *res judicata*. Moreover, it amounts to abuse of the court process, as the estate has been fully administered and distributed.

12. The upshot from the foregoing is that the application dated 13/1/2025 is in want of merit, and it is hereby dismissed with costs to the Respondent.

**DATED AND DELIVERED AT MERU THIS 14TH DAY OF
APRIL, 2026.**

**S.M. GITHINJI- JUDGE
14/4/2026**

In the presence of:-

1. Mr. Mwendwa for the Appellant.
2. Mr. Wambua for the Respondent (absent).