

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

SUCCESSION CAUSE NO. 176 OF 2015

IN THE MATTER OF THE ESTATE OF PHILLIP WAWERU

GATUMA ALIAS PHILLIP

WAWERU.....DECEASED

RULING:

1. The matter is for hearing of summons dated 5th February, 2025 in which the Applicant Julius Mburu Muiruri is seeking to be allowed to substitute one of the Administrator, Petro Muiruri alias Petro Muiruri P. Waweru, who is said to be deceased.
2. Having listened to the Applicant, I have perused the record and found that the Certificate of Confirmation of Grant was issued to Petro Muiruri P. Waweru and Nancy Wanjiku Mburu on 25th April, 2017.
3. However, the said Nancy Wanjiku Mburu is not in attendant before this court and the Applicant is unable to tell her whereabouts or why she is in court.
4. In the circumstances, I find that the Applicant, **Julius Mburu Muiruri** who is a son to Petro Muiruri who had been appointed and confirmed jointly with Nancy Wanjiku Mburu on 21st April, 2017 as administrators of the Estate of **Philip Waweru(Deceased)**. Julius is seeking to be substituted as an Administrator of the Estate in the place of his late father Petro Muiruri Waweru.
5. Under the **Law of Succession Act, Section 81** provides that if one of the administrators dies, the powers and

duties automatically vest in the surviving administrator may be done to continue with the administration of the estate just so that the estate is not left in limbo.

6. However, substitution of a deceased co-administrator on application or a beneficiary or interested party such as a spouse or child of the deceased Administrator for as long as the applicant takes out letters of administration for the deceased's Administrator's estate, attach a death certificate, and provide reason why the substitution is required in an affidavit in support thereof.
7. The intended/proposed substitute should also serve the surviving administrator and all the beneficiaries of the estate with the said summons(application).
8. Also to be included on the application is a copy of the original grant, consent of the beneficiaries and co-administrator confirming their agreement to the substitute, copies of ID cards for proposed substitute and other beneficiaries and if need be, minutes to confirm that the family met and agreed to allow him or her being a substituted administrator.
9. It is only after satisfying the above-mentioned requirements that the court will decide on whether or not to allow for substitution or let the surviving administrator continue alone as provided for under **Section 81 of the Law of Succession Act.**
10. In the instant case, I have perused the record and established that the Applicant has only filed the summons (applicant) dated 5th February, 2025, an affidavit in support dated even date, Certificate of Death issued on 3rd February, 2023 to confirm the co-administrator **Petro**

Muiruri P. Waweru issued on 20th November, 2018, a limited Grant of Letters of Administration issued to the Applicant on 31st January 2024 and Wairimu Njoroge on 19th January, 2024 respectively and Certificate of Confirmation of Grant dated 25th April, 2014.

11. However, there is no consent from the Co-administrator and all the Beneficiaries to confirm that they agree to his being substituted in place of Petro Muiruri P. Waweru.
12. There is also no evidence of service upon the Co-Administrator, **NANCY WANJIKU MBURU** to confirm she is aware of the current application before this court and neither are there minutes to confirm the family met and agreed on them being substituted with the father, the deceased co-administrator.
13. It is worth noting that the other Administrator, **Nancy Wanjiku** Mburu is not mentioned in the supporting affidavit sworn by the Applicant. She has not attended court for hearing of this application. On being interrogated on whether the surviving administrator is aware of the matter and why she is not in court or her whereabouts, the applicant remained silent.
14. In the circumstances, I find that while there is need to make an order to ensure the administration the deceased's estate is not interrupted, there is need to get the sentiments of the surviving Administrator and all towhee beneficiaries on the application so as to proceed with the administration of the estate smoothly.
15. In the ultimate, I find that the applicant has fallen short of meeting the threshold required to warrant grant of the

order sought for him to be substituted with his late father,
Petro Muiruri Waweru.

16. Therefore, since the Applicant is a layman, and may not be conversant with the technicalities required in these application involving Succession matters, I find that it will be in the interest of justice to save on court's time and the Applicant and other beneficiaries the expenses required in pursuing such matters:

17. I thus proceed to direct that:-

- a) The Applicant shall serve the applicant and any other documents in regard to his summons application dated 5th February, 2025 upon the Surviving Administrator, Nancy Wanjiku Mburu and other beneficiaries within three(3) days from the date hereof.
- b) The surviving Administrator, NANCY WANJIKU MBURU and the other beneficiaries be at liberty to file and serve consents or objections to the applications, if any within fourteen(14) days from the date of being served with the summons (application).
- c) The surviving Administrator and all beneficiaries to attend court on the next mention date.
- d) Mention on 7th May, 2026 for parties to confirm compliance and for further directions.

RULING AND DIRECTIONS READ THIS 22ND DAY OF APRIL, 2026.

**HON. D. CHEPKWONY
JUDGE**