



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAKURU**  
**SUCCESSION CAUSE NO. 256 OF 1990**  
**IN THE MATTER OF THE ESTATE OF DANIEL MUNTET NAIMODU**  
**(DECEASED)**

**ALFRED KOILEKEN SIMEL.....1<sup>st</sup>**  
**APPLICANT**

**GEORGE STEPHEN KAGIA MUHIA.....2<sup>nd</sup>**  
**APPLICANT**

**VERSUS**

**MONICAH WANJIKU.....ADMINISTRATOR/RESPONDENT**

**PAUL MUIGAI MUHIA..... ADMINISTRATOR/RESPONDENT**

**RULING**

1. Before me are two Applications a Summons dated **19<sup>th</sup> September, 2025** and one dated **19<sup>th</sup> December 2025**.
2. The 1<sup>st</sup> Application is a Summons dated 19<sup>th</sup> September, 2025 is by **Alfred Koileken Simel** seeking the following relief(s);
  - i. *SPENT*
  - ii. *THAT pending the inter partes hearing and final determination of these Summons, this Honourable Court be pleased to issue an order injunction*

*restraining the Respondents by themselves, their agents, employees, nominees, assigns, and/or any other persons or authority howsoever claiming through the Respondents whatsoever from disposing off, leasing out, cultivating, pledging, sub-dividing, offering for sale, selling, transferring and/or howsoever dealing with the properties forming part of the Estate of the Late DANIEL MUNTET NAIMODU which include, but is not limited to:*

- | <b>a) Olmekenyu</b> | <b>Title</b>                             | <b>No.</b> |
|---------------------|--|------------|
|                     | <b>NAROK/CIS-MARA/OLULUNGA/ 108,</b>     |            |
| <b>b)</b>           | <b>OLULUNGA TOWNSHIP TITLE NO. 70,</b>   |            |
| <b>c)</b>           | <b>NAROK/CIS-MARA/OLULUNGA/151,</b>      |            |
| <b>d)</b>           | <b>NAROK/CIS-MARA/OLULUNGA/209,</b>      |            |
| <b>e)</b>           | <b>NAROK/CIS-MARA/OLULUNGA/210,</b>      |            |
| <b>f)</b>           | <b>NAROK/CIS-MARA/OLULUNGA/18437 and</b> |            |
|                     | <b>NAROK/CIS-MARA/OLULUNGA/18438.</b>    |            |

*iii. THAT pending the inter partes hearing and final determination of these Summons, this Honourable Court be pleased to issue orders of inhibition forbidding any dealings in all the properties forming part of the Estate of the Late DANIEL MUNTET NAIMODU which include, but is not limited to:*

- | <b>a) Olmekenyu</b> | <b>Title</b>                           | <b>No.</b> |
|---------------------|--|------------|
|                     | <b>NAROK/CIS-MARA/OLULUNGA/ 108,</b>   |            |
| <b>b)</b>           | <b>OLULUNGA TOWNSHIP TITLE NO. 70,</b> |            |
| <b>c)</b>           | <b>NAROK/CIS-MARA/OLULUNGA/151,</b>    |            |

**d) NAROK/CIS-MARA/OLULUNGA/209,**

**e) NAROK/CIS-MARA/OLULUNGA/210,**

**f) NAROK/CIS-MARA/OLULUNGA/18437**

**g) NAROK/CIS-MARA/OLULUNGA/18438.**

- iv. *THAT there be a temporary stay of further distribution of the estate of the Deceased herein pending hearing and determination of this application.*
- v. *THAT the Orders issued herein be served upon the Land Registrar, Narok for compliance.*
- vi. *THAT pending the inter partes hearing and final determination of these Summons, this Honourable Court be pleased to issue Letters of Administration Ad Litem to the Applicant in respect of the estate of the deceased herein, in terms of the Petition dated 19<sup>th</sup> September, 2025, together with the supporting documents and annexures filed together herewith*
- vii. *THAT this Honourable Court be pleased to review, vary and/or make such reasonable provision in the said confirmed grant and the distribution schedule therein to include the estate of the Applicant's father as a rightful beneficiary.*
- viii. *THAT this Honourable Court be pleased to grant the Applicant leave to cite the Respondents for contempt of court.*
- ix. *THAT upon such Honourable Court be pleased to find the Respondents herein MONICAH WANJIKU and*

*PAUL MUIGAI MUHIA in contempt of the orders of this Honourable Court.*

- x. THAT this Honourable Court be pleased to commit the Respondents herein MONICAH WANJIKU and PAUL MUIGAI MUHIA to civil jail for a period of six (6) months or such other period as the Court may determine for contempt of the orders of this Honourable Court.*
- xi. THAT this Honourable Court be pleased to make any other and further orders that it deems just.*
- xii. THAT the costs of and occasioned by this application be borne by the Respondent.*

3. The Applicant in the 1<sup>st</sup> Application contends that the deceased DANIEL MUNTET NAIMODU, died intestate leaving behind several beneficiaries, including the Applicant's late father HOSEAH SIMEL NAIMODU:

- a) That, the Applicant, as beneficiaries through his father's estate, is entitled to a share of the deceased's estate.
- b) That, the Administrators are now in the process of distributing, the estate properties to the exclusion of the Applicant's father's estate.
- c) That, unless this Honorable Court intervenes by granting the orders sought herein, the Applicant and his family shall be permanently disinherited thereby violating their constitutional right to property and thus irreparable loss and harm.

- d) That, it is in the interest of justice and equity that the distribution schedule be reviewed to ensure fair, lawful and rightful administration of the estate.
- e) That, in the meantime the Respondents, being administrators of the estate, have blatantly failed, neglected and/or refused to render a full and accurate account of their administration of the estate, contrary to the express orders of this Honourable Court issued on the 20<sup>th</sup> July, 2020, thereby placing themselves in willful contempt.
- f) That, the said contempt undermines the authority of this Honourable Court and defeats the due administration of justice under the Law of Succession Act (Cap 160).
- g) That, it has also come to the Applicant's knowledge that certain third parties have unlawfully procured title to portions of the estate property without due process, and are in the process of alienating and/or disposing of the same.
- h) That, it is necessary and in the best interests of justice and of the estate that a Special Limited Grant of Letters of Administration Ad Litem be issued to the Applicant, solely for the purpose of pursuing and safeguarding the deceased's proprietary interests in the said parcels of land such as **CIS MARA OLULUNGA 151, 209 and 210** and related proceedings.
- i) That, unless the orders sought are urgently granted, the estate of the deceased stands to suffer irreparable loss and prejudice, which will render the cause nugatory.

- j) That, this application is made in utmost good faith and in the interests of preserving the estate pending the substantive grant of representation and distribution.
  - k) That, unless this Honourable Court intervenes urgently, the substratum of the estate will be dissipated, the beneficiaries and thus the Applicant will suffer irreparable prejudice, and these proceedings shall be rendered nugatory and that, it is therefore in the best interests of justice that the orders sought be granted.
4. The Application was opposed by the 1<sup>st</sup> Administrator **Monica Wanjiku** through the Replying Affidavit sworn on 28<sup>th</sup> October, 2025. She deposed that the Applicant and his late father were strangers to the estate and **HOSEAH SIMET NAIMODU** is not a beneficiary of the estate. That this Court has dealt with the claim by the Late **HOSEAH SIMET NAIMODU** to claim a share of the late **DANIEL MUNTET NAIMODU** and the pronouncement of this court has never been appealed. They therefore lack locus to purport to apply for Special Letters of Administration Ad Litem.
5. She contends that she has never disobeyed Court Orders and that the estate of the deceased has been encroached and intermeddled with and the Narok District Land Registrar is yet to fix the boundaries of the properties as attested to by numerous summons to properties of adjacent properties

She added that upon the demise of Daniel Muntet, Isabela Nyokabi was appointed as the administrator of the estate and upon her

demise the 1<sup>st</sup> Administrator applied to be appointed. That the following properties form part of the estate of the deceased:

- **NAROK/CISMARA/OLOLUIUNGA/108,**
- **NAROK/CISMARA/OLOLULUNGA/209,**and
- **NAROK/CISMARA/OLOLULUNGA/120** and the distribution of the estate has been delayed by numerous applications.

6. That previous attempts by **Mikee Parmaleu Paingoni** and **Hosea Simel** to revoke the grant have been wisely dismissed and that any property that has been acquired by a third party has shall be challenged elsewhere.
7. The 2<sup>nd</sup> Administrator **Paul Muigai Muhia** also opposed the Application by way of Replying Affidavit sworn on 6<sup>th</sup> February, 2026 where he deposed the Application is *res judicata* as it has been raised before by the 1<sup>st</sup> Applicant in his Application dated 15<sup>th</sup> June, 2017 and a ruling delivered on it on 28<sup>th</sup> April, 2025 where the Court found that it was *res judicata*. The Ruling has not been appealed against.
8. That the Applicant has not demonstrated he is a beneficiary of the estate through proper documentation and any allegation of lack of proper administration has not been proven and that it was the 1<sup>st</sup> Respondent who conducted the maladministration.
9. That no orders were issued directly against him and that the right party to be held in contempt is the 1<sup>st</sup> Respondent for disobedience of this courts Orders of 20<sup>th</sup> July 2020. That no justification has been

placed before this Honourable Court warranting issuance of Letters of Administration Ad-Litem whereas there currently exist administrators with a fully confirmed grant.

10. The 1<sup>st</sup> Applicant filed a Supplementary Affidavit sworn on 19<sup>th</sup> February, 2026 reiterating the contents of his Supporting Affidavit and insisted that the essence of the Application is preservation of the estate, accountability of the estate and provision for the estate of his late father as a rightful beneficiary.
  
11. The 2<sup>nd</sup> Application dated 19<sup>th</sup> December 2025 by **George Stephen Kagia Muhia** filed pursuant to **Section 26, 27, 28, and 47** of the **Law of Succession Act**, **Rule 45, 59, 63 and 73** of the **Probate and Administration rules**, **Articles 40, 48 and 159** of the **Constitution of Kenya (2010)** **Sections 1A, 1B, 3A and 63 (e)** of the **Civil Procedure Act** Cap and **Order 45** of the **Civil Procedure Rules 2010** seeking the following relief(s);
  - a) **SPENT**
  - b) **THAT his Honourable Court be pleased to review and/or vary the confirmed grant and the distribution schedule therein to include the Applicant as a rightful beneficiary of the Estate.**
  - c) **That, this Honourable Court be pleased to make any other and further orders that it deems just**
  - d) **That, the costs of and occasioned by this application be borne by the Respondent**

12. The Application is premised on grounds its face and on the annexed Supporting Affidavit of **GEORGE STEPHEN KAGIA MUHIA** wherein he deposes that entitled is a share of the deceased's estate by virtue of being the son **JOSEPH MUHIA** (now deceased) who is a direct beneficiary of the Estate herein.
13. He contends that his late mother **Miriam Njeri** was the 1<sup>st</sup> wife of **Joseph Muhia** and after their separation he married his 2<sup>nd</sup> and 3<sup>rd</sup> wives. That his mother took him with her following the separation and that is why he had no relationship with his father's subsequent families.
14. That the administrators intentionally left out his name despite the 2<sup>nd</sup> Administrator being his step brother so as to disinherit him and despite knowing he was the son of **Joseph Muhia**. That the 1<sup>st</sup> Administrator has consented to his inclusion as a beneficiary of the estate herein.
15. That he is a legitimate son of **Joseph Muhia** and as his step siblings, is rightfully entitled to his share in the estate.
16. That the Court should intervene and allow the prayers sought and it is in the interest of justice and equity that the Confirmed grant and the distribution schedule be reviewed to include him as a rightful beneficiary of the estate
17. In further opposition the 1<sup>st</sup> Applicant opposed that Application Replying Affidavit sworn by the 1<sup>st</sup> Applicant **Alfred Kileken Simen**

on 6<sup>th</sup> March, 2026 that the Applicant is a stranger to the estate and has failed to demonstrate any legal or biological link to the deceased **Joseph Muhia**. That he has not represented authority permitting him to litigate on behalf of or derive entitlement from the estate of Joeseph Muhia thus lacking locus standi.

18. He added that the documents annexed appear to have been procured solely for this litigation and the manner in which they have surfaced raise questions as to their authenticity and legality.
19. Application was opposed by the Replying Affidavit of **Paul Muigai Muhia** the 2<sup>nd</sup> Administrator sworn on 26<sup>th</sup> February, 2026. He deposes the 2<sup>nd</sup> Applicant is a stranger to the estate of Joseph Muhia. The birth certificate was procured during the proceedings and lack locus.
20. The matter came severally for directions among others the 22<sup>nd</sup> of June, 2021 when the 1<sup>st</sup> Respondent's Advocates on record indicated that he had filed Grounds of Opposition and would not be filing any other documents. The matter was therefore scheduled for hearing by way of viva voce evidence.
21. It is notable that the 2<sup>nd</sup> Administrator had also sought the revocation of grant on account of mal-administration on the part of the 1<sup>st</sup> Administrator.

22. By a Further Affidavit sworn on 18<sup>th</sup> March, 2026 the 2<sup>nd</sup> Applicant deposed that he did not take part in the proceedings was because he came to learn of the proceedings later after issuance of the grant. He added that is the birth certificate was a forgery the 2<sup>nd</sup> Administrator should have taken steps to impeach it. that he has no objection to having his birth certificate subjected to forensic document examination or being subjected DNA test.
23. The Honorable Court issued directions for disposal of the subject Applications vide written submissions.

### **1<sup>st</sup> Applicant's Submissions**

24. That the Applicants would not be here were it not for the various material nondisclosures and connivance by the Respondents and their alleged predecessor and that costs follow the event and for the inconvenience caused, they pray that the costs of this application be borne by the Respondents.

### **2<sup>nd</sup> Applicant's Submissions.**

25. The 2<sup>nd</sup> Applicant submits that he has discharged the burden of proof that he is a child of Joseph Muhia and submits that he is ready and willing to have a DNA conducted between himself and his step siblings including the 2<sup>nd</sup> administrator.
26. It is argued that being left out as a beneficiary of the estate herein, the Court has jurisdiction to review that Grant.

### **Analysis and Determination**

27. The 1<sup>st</sup> issue for consideration is if the 1<sup>st</sup> Application offends the *res judicata* rule as argued by the Respondent.
28. This is a Jurisdictional question that the court has to consider in the 1<sup>st</sup> instance of contention is that the 1<sup>st</sup> Applicant lacks *locus standi* and that previous attempts at having his deceased father Hosea, recognized as a son of the deceased had fallen to naught and that the instant Application is a further attempt at the same.
29. It is beyond peradventure that the Application seeks similar relief as was sought in his dismissed summons dated 15<sup>th</sup> June 2021 which ruling is yet to be contested on appeal.
30. The Applicant has thus contravened the *res-judicata* principle by relitigating an issue settled by this Court and thus has no right of further audience.
31. With Regards to the 2<sup>nd</sup> Application, the court finds no merit as the aggrievement of the Applicant is on his non-inclusion as a beneficiary to the estate of **Joseph Muhia** thereby qualifying him for a share herein, the 2<sup>nd</sup> Applicant is not the personal representative of the estate of Joseph Muhia and has not elected to agitate his aggrievement within the said succession.
32. It is noteworthy that the 2<sup>nd</sup> Respondent denies relations with the Applicant which issues can only be adjudicated in the probate and administration of the **Estate of Joseph Muhia**.

33. This court has equally been asked to issue a Special Limited Grant of Letters of Administration Ad Litem to the 2<sup>nd</sup> Applicant as a representative of the estate of his deceased father, the same is untenable in law and such proceedings are separate to be maintained in separate causes.
34. I accordingly find the 2<sup>nd</sup> Application dated 19<sup>th</sup> December 2025 to be without merit the same is dismissed with costs to the administrators.
35. The Court shall afford the administrator an opportunity to file a detailed return on distribution of assets of the deceased.
36. The applicant has leave to appeal this ruling before the Court of Appeal within 45 days.
37. The period of leave shall act as stay period.
38. Mention after 60 days.

It is So Ordered

**Signed, Delivered Virtually on Teams platform**

**On this 14<sup>th</sup> April 2026**

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**Mohochi S.M**

**JUDGE**

