



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERUGOYA**  
**SUCCESSION CAUSE NO. 151 OF 2012**

**PURITY WACERA NGIGI.....APPLICANT**

**VERSUS**

**PAUL MWANGI NGIGI .....1<sup>ST</sup>**

**RESPONDENT**

**GRACE WAMUTIRA KIMANI..... 2<sup>ND</sup>**

**RESPONDENT**

**JOYCE WAMWIRUA KIMANI..... 3<sup>RD</sup>**

**RESPONDENT**

**CHARLES MURIMI NGIGI..... 4<sup>TH</sup>**

**RESPONDENT**

**STEPHEN WAWERU KIMANI..... 5<sup>TH</sup>**

**RESPONDENT**

**RULING**

1. The Court has considered the Summons dated 3<sup>rd</sup> June, 2025 seeking stay of proceedings in two Succession Cases Nos. Kerugoya CM Succession Cases Nos. E301 and E302 of 2024 on the ground that the succession proceedings related to parcel of land **Mwerua/Gitaku/1971** and **1972** which are subdivisions of the suit parcel of land herein No. **Mwerua/Gitaku/199** pending the hearing and determination of this case.
2. The principal ground of the application is that the subject matter estates were as a result of execution of the confirmed grant here which led to the subdivision of the parent parcel of land and which is now sought to be revoked.
3. The respondents filed grounds of appeal dated 7<sup>th</sup> July, 2025 and written submissions dated 7<sup>th</sup> August, 2025. The applicant relied to the affidavits filed in the case.

4. The court is persuaded that discretion to stay proceedings being a thwarting of party's right to progress his litigation to a determination on its merits should be exercised cautiously on such principles as the existence of a *prima facie* case, that the application is filed without who dealing or there exists other sufficient cause in the interest of justice so that the court determines that the proceedings ought not to be allowed to continue in the meantime or at all.
5. See ***Global Tours & Travels Limited***; Nairobi HC Winding Up Cause No. 43of 2000; *Kenya Power -& Lighting Company Limited v Esther Wanjiru Wokabi* (2014) eKLR; *Kisai & 2 others (Suing on their Behalf and on Behalf of 443 Members of the Olongonot Community) v Kiambu Nyakinyua Farmers Company Limited & 2 others* [2025] eKLR; and ***Re Estate of Gerald Mwangi Mugo*** [2019] eKLR.
6. I have considered the pending application for revocation of Grants by the applicant which is on the ground that she was left out as a heir of the deceased who is her grandfather, and she therefore contends that "*deceased administration herein filed this succession cause without my knowledge and conceded but I am entitled to a share of the Estate where I have been living and depend on for my livelihood.*" See affidavit in support sworn on 4<sup>th</sup> February, 2022.
7. In the replying affidavit to the application for revocation of Grant of 4<sup>th</sup> February, 2022, the, 1<sup>st</sup> respondent herein set out grounds for dismissal of the application as follows: -
  - a. **The administration of the Estate of deceased (Annexed hereto and marked PK 2 is a copy of the death certificate.**
  - b. **The estate of the deceased has already been distributed to their rightful beneficiaries (Annexed hereto a copies of the title deeds marked PK3)**
  - c. **The applicant has filed the application with in..... delay.**
  - d. **The applicant is not a beneficiary of the estate**
  - e. **That the applicant has never resided on the suit property.**
8. From the scanty evidence in the affidavit in support of the application for revocation of Grant, it is not clear how the applicant is related to the deceased. Save for the allegations that the deceased was her grandfather, the applicant does not disclose as to who her parents were and whether they had been included and provided for in the Petition for Grant to the deceased's estate. It is also not explained why is the application for stay of proceedings it is only sought to stay Succession over the **two** named parcels of land and nothing is said as to the status of the other (4) parcels of

land created by the subdivision of suit parcel of land and shown as **Nos. Mwerua/Gitaku/1971-1976.**

9. It also appears to this court that the succession proceedings over the estate of the deceased persons in Nos. E301 and E302 of 2024 does not affect this hearing and determination of the application for revocation of Grant herein. If the applicant is successful the grant will be revoked and she will be provided for as a beneficiary along with the other heirs. That does not call for the stay of proceedings of the deceased other heirs' estates. She does not state that they are not entitled. All it calls for is an order for preservation of the parcels subject of the said succession proceedings and which can be done by a simple order of restriction on the titles pending the hearing and determination of the revocation application.
10. The Court is, therefore, not persuaded that proceedings for the succession of the deceased beneficiaries in Succession Nos. E301 and E302 of 2024 before Kerugoya Chief Magistrate Court should not be allowed to continue.

#### **ORDERS**

11. Accordingly, for the reasons set out above, the Court does not find merit in the application for stay of proceedings dated 3<sup>rd</sup> June, 2025 and it is declined.
12. In the interests of justice, as the Court is required to uphold by Rule 73 of the Probate and Administration Rules 1981, the Court directs that a restriction to dealings be registered on each of the two (2) titles the subject of this application being **Mwerua/Gitaku/1971** and **Mwerua/Gitaku/1972** pending determination of this case.
13. There shall be no orders as to costs.
14. The application for revocation of Grant herein shall be set for hearing on priority basis to hearing in the interests of an expeditious disposal of the succession dispute herein.  
*Order accordingly.*

**DATED AND DELIVERED THIS 16<sup>TH</sup> DAY OF APRIL 2026.**

**EDWARD M. MURIITHI**

**JUDGE**

#### **Appearances:**

Mr. Igati Mwai for the Applicants.

Mr. Mwangi Maina for the Respondents.