



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAKURU**  
**SUCCESSION CAUSE NO 833 OF 2015**  
**IN THE MATTER OF THE ESTATE OF GILBERT THUO WATORO**  
**(DECEASED)**

**GADSON THUO.....**  
**APPLICANT**

**VERSUS**

**PRISCILLA WAMBUI KARANJA.....1<sup>st</sup> RESPONDENT**  
**ABSA BANK KENYA PLC.....2<sup>nd</sup> RESPONDENT**

**RULING**

1. The Applicant is the deceased's grandson and who has three Applications before the Court, the 1<sup>st</sup> Application is a summons for revocation of grant dated **21<sup>st</sup> August 2024** it further seeks the Administratrix be restrained from disposing of or in any case interfering with the property of the deceased, to account, as well as a compulsion order to deposit all titles forming part of the estate.
  
2. It is his case that Letters of administration were obtained clandestinely without notice and without inclusion of him and his siblings who are also beneficiaries of the deceased estate.

3. By way of Replying Affidavit dated 18<sup>th</sup> November, 2024 the 1<sup>st</sup> Respondent opposed the Application. It is her case that the Applicant is the child of their deceased's siter Rahab Kamau who was listed as a beneficiary in the chief's letter and the in the application dated 21<sup>st</sup> August, 2024. That the assertion that the grant was issued to the exclusion of some beneficiaries and failed to disclose material information is deliberately intended to mislead the court. that the Applicant was aware of the circumstances that led to the division and had virtually logged in Court when the grant was confirmed
  
4. The Second Application is a Notice of Motion Application dated 2<sup>nd</sup> May 2025 against the 2<sup>nd</sup> Respondent seeking the following reliefs;
  - a) *Spent*
  - b) *That, this Honorable Court be pleased to issue an order directing ABSA BANK KENYA PLC to furnish the Applicant who is a beneficiary of the estate with complete records of any loans, overdrafts, facilities, securities, charge instruments, or related documents issued to or held in the name of the deceased in the LR. No BAHATI/ WENDO/ BLOCK 1/6, including but not limited to charge information, bank statements, and correspondence.*
  - c) *That, this Honorable Court be pleased to compel the said bank to avail the information within fourteen (14) days from the date of service of this order.*
  - d) *That, this Honorable Court be pleased to give any such other and/or further order(s) as it may deem fit.*

5. It is the Applicant's case that the 2<sup>nd</sup> Respondent has charged the estate property BAHATI/WENDO/BLOCK 1/6 and that it has become necessary to ascertain the balances of the account.
6. In response, the 2<sup>nd</sup> Respondent through the Affidavit of **Mercy Wambugu** Legal Officer sworn on 24<sup>th</sup> November, 2024 asserted that there was no record whatsoever showing that the deceased maintained any account, obtained any loan facility or created any charge in favour of the Respondent Bank nor was there facility agreement, charge instrument, or letter of offer bearing the Respondent's name to justify the prayers sought. That the search records proved the same.
7. That unless the Applicant can provide verifiable particulars or documentation linking the deceased to an account or facility with the Respondent, the Respondent is unable to take any further action beyond the exhaustive search already conducted.
8. The 3<sup>rd</sup> is the Notice of Motion Application dated 7<sup>th</sup> October 2025, filed pursuant to **Articles 40, 47, 50(1), and 159(2)(d)** of the **Constitution** of Kenya; **Sections 47, 45, and 76** of the **Law of Succession Act (Cap 160)**; and **Rules 44, 49, and 73** of the **Probate and Administration Rules**, craving for the following orders;
  - a) ***That, this Honourable Court be pleased to grant leave to the Applicant to adduce and place on record additional and fresh evidence relating to ongoing***

***police investigations into allegations of forgery of documents forming the basis of the impugned Grant and evidence of intermeddling with the estate property by the Respondent/Administratrix as confirmed by the area Chief and photographic exhibits annexed hereto;***

- b) That, pending the conclusion of the said investigations and any resultant criminal proceedings, this Honourable Court be pleased to stay delivery of its ruling and/or further proceedings on the Summons for Revocation of Grant filed herein***
- c) That, this Honourable Court be pleased to make such further or other orders as may be necessary for the ends of justice and to prevent abuse of the process of the Court***
- d) THAT the costs of this application be in the cause.***

9. Through his Affidavit in Support it is the Applicants' case that new and material evidence has since emerged showing that the Directorate of Criminal Investigations (DCI) has commenced forgery investigations concerning the very documents forming the basis of the impugned Grant which are material to the revocation of grant proceedings. That the investigations are ongoing and involve forensic examination of the beneficiaries' signatures and documents whose authenticity is central to the issues before this Court in the summons for revocation.
10. That despite confirmation of grant he has been denied access to his rightful share. That the 1<sup>st</sup> Respondent has been intermeddling with

the estate according to the area Chief and photographic evidence to include unauthorized leasing, farming, and acquisition of loans using estate property and that unless the Court grants leave to admit the new evidence, and stays delivery of its Ruling there is a real risk of miscarriage of justice.

### **Analysis and Determination**

11. Having considered the Applicant's case on all the three Applications and the Replies in opposition I have refined the following issues for consideration?
  - a) Whether the Application for revocation of grant has merit?
  - b) Whether the Application against the 2<sup>nd</sup> Respondent has merit? and;
  - c) Whether the 3<sup>rd</sup> Application for introduction of additional evidence has merit?
  
12. In my consideration of these Applications, it is noteworthy that the Applicant is not a dependant and according to Section 29 of the Law of Succession Act, grandchildren can be considered dependants if they were being maintained by the deceased immediately before their death, even if their parents are alive, but this often requires court intervention to prove dependency.
  
13. In this instance the Applicant only contends that he was never consulted and that his signature was forged, the Confirmed grant and the share allocation to the estate of the Applicant's deceased

mother is equitably included, the Administrator contends that the subdivision and transmissions have been affected.

14. It is further noteworthy that the Applicant has not moved the court as a personal representative of the estate of his deceased mother but rather as an entitled beneficiary in this estate.
15. The 1<sup>st</sup> Respondent contends that her late sisters Hellen Mugure Thuo, Lenah Wangari Thuo and Rahab Wanjiku Kamau are survived by 12 children, the twelve children are all listed as beneficiary including the applicant and the two siblings.
16. That the deceased had a sister (who is now deceased) but is also a beneficiary of the estate as she was a dependant when the deceased was alive. That her estate is also listed on the grant and the family members are well aware of the same.
17. That the deceased had two parcels of land known as Bahati Wendo Block 1/128 (10 acres) and Bahati Wendo Block 1/6(1 acre).
18. That, the deceased sub divided land title number Bahati Wendo Block 1/128(10 acres) among his five children both alive and dead and his one sister who was his dependant and gave each child a two acre piece of land and the sister was given one acre of land.

19. That the family of Hellen Mugure Thuo was already residing on an area given to them by the deceased and they had built a home on that area even before the deceased subdivided the property.
20. That her sister Rahab Wanjiku Kamau had bought some two acres of land from the deceased where she had built a home for her family and when she wanted to move from the area, she decided to sell that piece of land and the deceased insisted since it was family land it could only be sold to a family member and the same was purchased by Betty Thuo.
21. To the court is a logical explanation by the 1<sup>st</sup> Respondent that is without any rebuttal or contestation the share to the estate of the Applicant's mother is provided for in LR. No BAHATI/ WENDO/ BLOCK 1/128 (10 acres) and that the Applicant's Mothers share on LR. No BAHATI/ WENDO/ BLOCK 1/6 does not exist.
22. The 2<sup>nd</sup> Respondent denies of existence of a bank account in its records, in the name of the deceased.
23. The 2<sup>nd</sup> Respondent denies of existence of a charge or loan facility in its records, taken out against the LR. No BAHATI/ WENDO/ BLOCK 1/6 and as such in the absence of otherwise proof, the 2<sup>nd</sup> Notice of Motion Application dated 2<sup>nd</sup> May 2025 becomes moot and inconsequential.

24. With regards to the last Application seeking to introduce additional evidence to wit an ongoing criminal investigation by the police, the Court is of the view that the same is not new to the Applicant who instigated the criminal investigations and was all along aware of the same. In any case the criminal investigations cannot hold the succession in a state of limbo.
25. I am thus constrained to find as follow;
- a) The summons for revocation of grant dated 21<sup>st</sup> August 2024 is without merit;**
  - b) The Notice of Motion Application dated 2<sup>nd</sup> May 2025 is without merit;**
  - c) The Notice of Motion Application dated 7<sup>th</sup> October 2025, is without merit;**
26. The court shall grant costs to the 1<sup>st</sup> Respondent for the 1<sup>st</sup> and the 3<sup>rd</sup> Applications.
27. The 1<sup>st</sup> Respondent is granted costs for the 2<sup>nd</sup> Application.
28. The Administrator is Ordered to file an affidavit detailing her final account of the distribution and transmission of the entire estate, within the next forty-five (45) days.
29. Any party aggrieved by this ruling may Appeal within the next thirty (30) Days from the date of this Ruling.

It so ordered

**Signed, Dated and Delivered at Nakuru**

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

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**Mohochi S.M**

**JUDGE**