



In re Estate of Solomon Mwangi Waweru (Deceased) (Succession Cause 488 of 2012) [2025] KEHC 665 (KLR) (30 January 2025) (Ruling)

Neutral citation: [2025] KEHC 665 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 488 OF 2012
SM MOHOCHI, J
JANUARY 30, 2025**

IN THE MATTER OF ESTATE OF SOLOMON MWANGI WAWERU (DECEASED)

BETWEEN

FRANCIS MUCHIRI MWANGI 1ST APPLICANT

EPHANTUS KIMORI MWANGI 2ND APPLICANT

AND

ELIZABETH WANGARI MWANGI RESPONDENT

RULING

1. The Judgment in this matter was delivered on the 15th February 2024 and the three administrators were mandated to undertake their work by preparing and executing transmission forms in favour of the beneficiaries as well as undertake a balloting of a listed batch of plots.
2. The Administrators were to undertake the task and file a return within six months and the continued inability of the Administrators to work together has given rise to the Summons dated 12th August 2024 indicating that the Respondent has been uncooperative to an extent that the distribution of the estate has ground to a halt and that the Court should force the Respondent to execute the transmission forms or alternatively remove her as an administrator to paver way for the distribution.
3. This Court further reaffirms its role in intestate successions such as this one is to make findings on distribution upon confirmation and the administrators are then expected top work in a civil manner as adults to undertake the work bestowed upon them.
4. The Respondent in her replying affidavit dated 23rd September 2024, goes at length to explain that the administrators sought to conduct a balloting that she elected not no participate on the 22nd May 2024 and she unilaterally with some beneficiaries conducted their own balloting on the 25th May 2024 which yielded a list of assets and beneficiaries and that she provides and asset on t included which asset



- she now claims was sold by the deceased to a third party, and in a subtle manner introduces a dispute as to which advocate shall undertake the transmission.
5. The Respondent urges for removal of the Applicants and their replacement with Timothy Mugambi Mwangi and Samwel Waweru.
 6. The Respondent further urges for dismissal of the Application with costs.
 7. The Respondent further filed her Application dated 11th November during pendency of the ruling of the summons dated 12th August 2024 she unilaterally seeks to access a bank account to offset an accrued medical bill of kshs 93, 050/- of Samwel Waweru Mwangi who was then hospitalised.
 8. The Court directed that both Applications would be entertained concurrently, the Application was certified as urgent.
 9. The Respondent was to serve the Application upon her Co-Administrators within three (3) days (A return of service be filed)
 10. The Application was to be heard and disposed by way of filed written submissions.
 11. The Co-Administrators 1st and 2nd Applicants were to file and serve Response within three (3) days from receipt of service
 12. The Respondent was to file and serve written submissions not exceeding three (3) pages within nine (9) days from the date of the directions.
 13. The Co-Administrators 1st and 2nd Applicants were to file and serve written submissions not exceeding three (3) pages within Twelve (12) Days from the date of the directions.
 14. The Ruling of this Application was scheduled to be made within the Ruling Scheduled for the 30th January 2025.
 15. The Applicants filed their Written submissions dated 14th October 2024.
 16. The Respondent has not filed any written submissions in opposition to the Application dated 12th August 2024 and in support of her own Application dated 11th November 2024.
 17. The Respondent has not demonstrated any compliance with the directions of the Court dated 13th November 2025.

Analysis and Determination

18. It is apparent that the three co - administrators have personal differences that is imported into the succession and is inhibiting the conclusion.
19. This Court does not view the points that are holding the transmission to ransom as judicious issues for the Court's determination.
20. No administrator shall purport to act unilaterally of the other co-administrators.
21. The Respondent has neither exhibited any urgency in concluding the succession and has in a willy-nilly fashion sought for the removal of her co-administrators.
22. Both applications are seeking the discretion of this Court and at this juncture the Court is still persuaded that the three administrators appointed are competent to conclude the exercise without allowing any historical or extraneous matters to cloud their objectivity.



23. The Respondent has not demonstrated compliance with the Court's direction. She has not show cased what efforts she has undertaken to enjoin her co-administrators in settling the hospital bill.
24. The Respondent has not indicated what efforts she has undertaken towards fully complying with the judgment.
25. Samwel Waweru Mwangi the deceased son and the patient subject to the 2nd Application is in fact proposed as a replacement Administrator and is thus an adult. He never swore any affidavit in support of the 2nd Application or showcase efforts made towards having the estate of the deceased settle the hospital bill.
26. Owing to the continued protracted nature by the parties, this Court shall now condemn unsuccessful parties to costs in their own personal capacity.
27. This Court finds merit in the summons dated 12th August 2024, the same is allowed and is unable to find merit in the Summons dated 11th November 2024, the same is dismissed.
28. This Court is of the considered final resultant orders;
 - i. The Deputy Registrar shall closely accompany the execution of judgment to the letter.
 - ii. That the Administrators are collectively undertake a fresh balloting with all assets subject to ballot All being placed in one pot as opposed to clusters.
 - iii. The Fresh ballot shall be undertaken before the Deputy Registrar of the High Court within the next 14 days from the date hereof.
 - iv. The Administrators shall after balloting collectively prepare and execute All transmission forms within the next 21 days from the date hereof.
 - v. In the event of disagreement over form of transmission each of the party disagreeing may prepare and execute their own forms to be filed in Court within the next 30 days from the date hereof.
 - vi. The Deputy Registrar is hereby directed and authorised to consider the conflicting transmission forms (if any) and to execute on the part of an administrator refusing to execute.
 - vii. The Deputy Registrar is directed to periodically mention the matter and offer administrative support towards conclusion.
 - viii. With Regards to any assets unilaterally sold or assets forming part of the estate and not included, this Court shall reserve the issue at the tail end after distribution of the known assets. All beneficiaries shall have the right to make representations.
 - ix. This Court is now inclined to grant costs of the summons dated 12th August 2024 to the Applicants while no cost order is made with regards to the Summons dated 11th November 2024.

DATED, SIGNED AND DELIVERED AT NAKURU ON THIS DAY OF 30TH DAY OF JANUARY, 2025.

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S. MOHOCHI

JUDGE

