



REPUBLIC OF KENYA



**In re Estate of Zacharia Muriuki Karobia (Deceased) (Probate & Administration
E013 of 2024) [2025] KEHC 4039 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4039 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
PROBATE & ADMINISTRATION E013 OF 2024**

MA ODERO, J

MARCH 28, 2025

IN THE MATTER OF THE ESTATE OF ZACHARIA MURIUKI KAROBIA (DECEASED)

BETWEEN

CHARLES NDERITU MURIUKI 1ST APPLICANT

CAROLINE WAMUYU MURIUKI 2ND APPLICANT

AND

AGNES NYAMBURA MURIUKI 1ST RESPONDENT

STEPHEN MUGO MURIUKI 2ND RESPONDENT

RULING

1. Before this Court is the Summons dated 29th November 2024 by which the Applicants Charles Nderitu Muriuki and Caroline Wamuyu seek the following orders:-
 1. Spent
 2. That this Honourable Court be pleased to issue a *status quo* order restraining the respondents, their agents or servants, employees or any other assigns or representatives from intermeddling in any way with the estate of the deceased.
 3. That pending hearing and determination of this application and confirmation of grant a preservative order do issue restraining the respondents by themselves their agents or servants, employees or any other assigns or representatives from intermeddling in any way with the estate of the deceased.
 4. That applicant and other beneficiaries be allowed to maintain peaceful possession and use of the properties gifted inter vivos pending determination of the Succession process.



5. That the Officer Commanding Station (OCS) Naromoru Police Station be directed to assist the applicants in the enforcement of the orders herein above.
6. Costs be in the cause.
2. The Application was supported by the Affidavit of even date sworn by the Applicants.
3. The Respondents Agnes Nyambura Muriuki and Stephen Mugo Muriuki filed a Replying Affidavit dated 16th December 2024 opposing the application.
4. The matter was canvassed by way of written submissions. The Applicants filed the written submissions dated 8th January 2025 whilst the Respondents relied upon their written submissions dated 13th February 2025.

Background

5. This succession cause relates to the estate of the late Zacharia Muriuki Karobia (hereinafter ‘the Deceased’) who died intestate on 29th March 2023. A copy of the Death Certificate Serial Number 1466317 is annexed to the Petition for letters of Administration Intestate dated 15th March 2024.
6. The Deceased was survived by two widows and several children as follows:-

1st House

- a. Peninah Njambi Muriuki - Wife
- b. Peris Wanjiru Muriuki - daughter
- c. Stephen Mugo Muriuki - son
- d. Agnes Nyambura Muriuki - daughter
- e. Alice Wamuyu Muriuki - daughter
- f. Susan Wangui Muriuki - daughter
- g. Beatrice Muthoni Muriuki - daughter
- h. Rosemary Wanjiku Muriuki - daughter
- i. Michael Karoba Muriuki - son

2nd House

- (a) Virginia Wambui Muriuki - wife
- (b) Leah Njeri Muriuki - daughter
- (c) Elizabeth Wanjiru Muriuki - daughter
- d. Joseph Karoba Muriuki - son
- e. Stephen Maina Muriuki - son
- f. Caroline Wamuyu Muriuki - daughter
- g. Samuel Mwangi Muriuki - son
- h. Charles Nderitu Muriuki - son



7. The assets left behind by the Deceased included
 - (a) Laikipia Salama Mururu Block 1/2606
 - (b) Naromoru/kiamathage Block 1/342
 - (c) Naromoru/kiamathage/block 1/343
 - d. Naromoru/kiamathage/block 1/339
 - e. Naromoru/kiamathage/block 1/338
 - f. Naromoru/kiamathage/block 1/340
 - g. Naromoru/kiamathage/block 1/341
 - h. Magutu/rugati/1005
8. Following the demise of the Deceased; Grant of Letters of Administration Intestate were on 23rd September 2024 issued jointly to Agnes Nyambura Muriuki, Stephen Mugo Muriuki, Caroline Wamuyu Muriuki and Charles Nderitu Muriuki.
9. The Administrators filed a Summons for Confirmation of Grant dated 4th December 2024. Several of the beneficiaries (all from the 2nd House) filed an Affidavit of Protest dated 13th December 2024. Before the Protest could be heard and/or determined two (2) of the four (4) Administrators of the Estate filed this present application seeking injunctive orders.
10. The Applicants allege that on 23rd November 2024 the Respondents invaded the properties known as Naromoru Kiamathagi Block 1/338, Block 1/339 Block1/340 and Block 1/341 which properties the Applicants claim had been gifted to them by the Deceased during his lifetime.
11. The Applicants accuse the Respondents of intermeddling with the property of the Deceased and pray Applicants be allowed to continue enjoying peaceful possession and use of the abovementioned property.
12. On this part the respondents deny that the said properties were gifted to the Applicants. They aver that the family have been utilizing all the estate property peacefully. They accuse the Applicants of unilaterally fencing off portions of the estate property for their own exclusive use. The Respondents urge the court to dismiss the application.

Analysis and Determination

13. I have carefully considered this application, the reply filed thereto as well as the written submissions filed by both parties.
14. At the outset it must be pointed out that no party holds a confirmed grant in respect of the estate of the Deceased. As such no party has the right to exclusive use of estate property as distribution is yet to be done. The claim by the Applicants that the Deceased made to them a gift inter vivos of the cited properties is at this point a mere allegation. That claim is yet to be proved in legal proceedings.
15. The Applicant prayed for preservative orders to prevent any party interfering with the estate. Section 45(1) of the *Law of Succession Act* Cap 160, Laws of Kenya provides as follows:-

“ 45(1) Except so far as expressly authorized by this Act, or by any other written law, or by a grant of representation under this Act, no person shall for any purpose



take possession or dispose of, or otherwise intermeddle with any free property of the deceased person.”

16. Section 45(2) goes on to make intermeddling a Criminal Offence and provides for the penalty where any party is found guilty of intermeddling with the property of a Deceased person.

17. *In Re Estate of Veronica Njoki Wakagoto (Deceased)* [2013] eKLR, Hon. Justice William Musyoka stated that

“The effect of [Section 45] is that the property of a dead person cannot be lawfully dealt with by anybody unless such a person is authorised to do so by the law. Such authority emanates from a grant of representation and any person who handles estate property without authority is guilty of intermeddling. The law takes a very serious view of intermeddling and makes it a criminal offence.”

18. As stated earlier the Grant issued in this matter is yet to be confirmed.

The joint Administrators are only authorized to collect in and preserve the estate of the Deceased pending distribution by the Court. Therefore at this stage the Applicants cannot claim ‘Ownership’ of any part of the estate and have no right to exclusive use of any of the estate properties.

19. I find no merit in this application as at the present time the Applicants cannot claim exclusive use, ownership and/or possession of any of the estate properties. Their allegation that a gift *intervivos* was made by the Deceased will have to be tested during the hearing of the summons for confirmation of the Grant.

20. The court takes this opportunity to warn all the parties against intermeddling with the estate as the protest is yet to be heard and determined. The said properties are still registered in the name of the Deceased. They have not been transferred to the Applicants. The said properties therefore remain part of the estate and are available for distribution to the beneficiaries. The parties must await distribution before claiming any part of the estate.

21. The court orders that the *status quo* be maintained. The summons dated 29th November 2024 is hereby dismissed in its entirety. No orders on costs.

DATED IN NYERI THIS 28TH DAY OF MARCH 2025

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MAUREEN A. ODERO

JUDGE

