



REPUBLIC OF KENYA



In re Estate of Stephen Mulwa Ilivi (Deceased) (Succession Cause E019 of 2020) [2025] KEHC 5453 (KLR) (30 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5453 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
SUCCESSION CAUSE E019 OF 2020**

EN MAINA, J

APRIL 30, 2025

IN THE MATTER OF THE ESTATE OF STEPHEN MULWA ILIVI(DECEASED)

RULING

Summons for Confirmation of Grant

1. Pursuant to the amended summons dated 22nd July,2022, the Applicant sought orders for partial confirmation of the grant of letters of administration intestate issued to Simon Makau Mulwa on 12th May 2021 in regard to the following properties Mumbuni/Kasinga/2469, Mumbuni/Kasinga/1916 and Mumbuni/Kasinga/666 but that confirmation be deferred in regard to
 - a. Mavoko Town Block 2/12112
 - b. Mavoko Town Block2/12407
 - c. Mavoko Town Block 2/110
 - d. Mavoko Town Block 2/12242 so as to await resolution of disputes involving the same in the Environment and Land Court in Machakos.

Affidavit of Protest against Confirmation of Grant and on distribution.

2. By the Affidavit of Protest against Partial Confirmation of grant sworn by Victoria Agbaje, the Protestor herein, wherein, she deposed that the deceased sold his parcel of land to her and handed over all the transfer documents to her before he died.

Determination/Analysis

3. I have considered the Summons for confirmation of grant, the affidavit of protest and the corresponding affidavits as well as the submissions that have been filed by the parties. I find that the issues for determination are;
 - a. Whether the grant of letters of administration should be confirmed partially.



4. I note that it is not in dispute that the deceased herein left the following properties: Mavoko Town Block 2/12112, Mavoko Town Block 2/12407, Mavoko Town Block 2/110, Mavoko Town Block 2/12242, Mumbuni/Kasinga/2469, Mumbuni/Kasinga/1916 and Mumbuni/Kasinga/666.
5. The subject of the dispute is the properties: Mavoko Town Block 2/12112, Mavoko Town Block 2/12407, Mavoko Town Block 2/110, Mavoko Town Block 2/12242.
6. In this case, the Objector is opposed to the partial confirmation of the grant. She alleged to be a purchaser having purchased the property Mavoko Town Block 2/110 from the deceased. The objector submitted that she was opposed to the confirmation because the behavior of the administrators was wanting and would be highly prejudicial to her.
7. I agree with the petitioner in their submissions that the objection is baseless as the confirmation by the administrators is clear on which properties they are seeking partial confirmation of: Mumbuni/Kasinga/2469, Mumbuni/Kasinga/1916 & Mumbuni/ Kasinga/666.
8. The properties in dispute have not been listed as part of those to be confirmed and infact the administrators listed that their confirmation should be hived off pending hearing and determination of Nairobi Civil Appeal No.87 of 2020.
9. Section 71 of the *Law of Succession Act* provides:-

“71(1) After the expiration of a period of six months or such shorter period as the court may direct under subsection (3) from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.”
10. I rely on the case relied on by the administrator in his submission the case of *In re Estate of James Njenga Njuguna (Deceased)* [2022] eKLR where the court confirmed a partial grant in respect of the property that was not in dispute.

Disposition

11. In the end, I order as follows;
 - a. The grant of letters dated 12th May 2021 is hereby partially confirmed in respect of the properties Mumbuni/Kasinga/2469, Mumbuni/Kasinga/1916 and Mumbuni/Kasinga/666.
 - b. Confirmation of grant in respect to the remaining properties to await the determination of the cases filed in the ELC.
 - c. A certificate of partial confirmation to issue.

Orders accordingly.

RULING SIGNED, DATED AND DELIVERED VIRTUALLY THIS 30TH DAY OF APRIL, 2025.

E.N. MAINA

JUDGE

In the presence of:

Ms Kimiti for the Petitioners

Ms Mwirichia for 1st Objector



Mr. Muinde for 2nd Objector

Miriam – Court Assistant

