



In re Estate of James Ndungu Mungai (Deceased) (Succession Cause 2795 of 2011) [2025] KEHC 5782 (KLR) (Family) (28 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5782 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 2795 OF 2011
CJ KENDAGOR, J
APRIL 28, 2025
IN THE MATTER OF ESTATE OF JAMES NDUNGU MUNGAI – DECEASED**

BETWEEN

GODFREY NGATIA NJOROGE OBJECTOR

AND

JANE NYAMBURA KAMAU 1ST ADMINISTRATOR

REUBEN WAINAINA KAMAU 2ND ADMINISTRATOR

JOHN MUNGAI KAMAU 3RD ADMINISTRATOR

RULING

1. The Grant of Letters of Administration in this case was issued and confirmed in the names of the three Administrators herein – Jane Nyambura Kamau, Reuben Wainaina Kamau and John Mungai Kamau (Applicants). Godfrey Ngatia Njoroge (Respondent) filed Summons for the Revocation of the Grant dated 10th February, 2021.
2. Before the Summons for Revocation could be heard, the Administrators filed the Application dated 25th March, 2024, seeking the following orders;
 - i. That the Summons for Revocation of Grant be struck out for being an abuse of the court process.
 - ii. That Godfrey Ngatia Njoroge meets the costs of the Application.
3. The Administrators argue that the Summons for Revocation of Grant is founded on a claim of title originating from Thika ELC No. 773 of 2027. They submitted that this judgment has been set aside,



leading to the revocation of the title. According to the Administrators, the Respondent's interests in the matter have been extinguished, and he no longer has the right to apply for revocation of the grant.

4. The Respondent contends that he is the rightful owner of the parcel LR. No. 152/9 Kentmere/Limuru, which is part of the property in this succession cause. He also contends that he stays on the parcel.
5. I have reviewed the orders that the Administrators have requested this Court to make. Striking out is a severe measure that must be applied cautiously.
6. Directions have been given regarding the hearing of the Summons for Revocation. The parties have been involved in Court proceedings since 2021. Should this Court decide to strike out the Application without hearing it, the Respondent herein will be denied the opportunity to present his arguments on the issues at hand.
7. The Administrators have urged the Court to accept the assertions in their affidavit at face value. While they may present a preliminary case, it is crucial to allow the parties to present their arguments in Court so they can either win or lose fairly. Of course, this does not imply that Courts should entertain frivolous applications just for the sake of doing so.
8. In probate matters, it is essential to carefully examine the issues at hand and provide a decision that offers a sense of finality, enabling the closure of a deceased person's estate and any interests that may be brought before the Court. This is why many of these cases are conducted via viva voce evidence, as it allows for a more nuanced understanding of the parties' positions.
9. I have carefully considered the potential prejudice that may be experienced by the Respondent if the Summons for Revocation is struck out at this stage. This consideration must be weighed against the prejudice to be faced by the Administrators of the estate.
10. Given the broader principles of justice, I opine that the Summons for Revocation should be decided based on its merits after a hearing, allowing all parties to fully present their cases.
11. The Application dated 25th March, 2024 is dismissed with costs in the cause.
12. The parties involved are hereby directed to promptly take action to facilitate the swift resolution of this matter.
13. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 28TH DAY OF APRIL, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Omari, Advocate holding brief for Namada Advocates for the Administrators

No attendance for the Respondent

