



In re Estate of James Maina Manji (Deceased) (Succession Cause 244 of 2008) [2025] KEHC 7906 (KLR) (29 May 2025) (Ruling)

Neutral citation: [2025] KEHC 7906 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 244 OF 2008**

JM NANG'EA, J

MAY 29, 2025

IN THE MATTER OF THE ESTATE OF THE LATE JAMES MAINA MANJI (DECEASED)

BETWEEN

STEPHEN MUNENE WAITITU 1ST APPLICANT

JOHN MBURU KAGWA 2ND APPLICANT

AND

MARY NYAMBIA MAINA ADMINISTRATRIX

RULING

1. The Applicants bring a Summons dated 27th May 2024 for Annulment of Grant of Letters of Administration herein dated 8th July 2008 and confirmed on 4th April 2019. The Summons is for the following reliefs:-
 1. Spent
 2. That this honourable court be pleased to issue orders annulling or revoking the grant of letters of administration intestate made to Mary Nyambia Maina herein on 4/4/2019.
 3. The applicant be granted leave of court to file a protest.
 4. Costs of the application be provided for.
2. The 1st Applicant (Stephen Munene Waititu) swore an affidavit in support of the application with the authority of the 2nd Applicant. It is averred that the Applicants are purchasers of the subject land parcel known as Miti Mingi Mbaruk Block 1/335 from one Charles Juma who had in turn bought the land from the deceased. Due diligence was said to have been undertaken before the transaction was executed. The Applicants therefore contend that the land does not form part of the deceased's Estate herein, available for distribution to the heirs.



3. For the stated reasons inter alia the Applicants seek revocation of the Grant for alleged fraud in obtaining the same, the sale transaction not having been disclosed to the court.
4. The Administratrix opposes the application vide her affidavit in reply filed on 29th May 2024. She describes the Applicants as strangers to her and the Estate and insists that the disputed land is part of the Estate. The purported seller of the land to the Applicants is also dismissed as not among the beneficiaries of the Estate with authority to dispose of the land.
5. The Respondent further deposes inter alia to the fact that the concerned Land Control Board and relevant spousal consents were not sought before the ostensible sale of the land to the said Charles Juma. Moreover, the court is told that there is no evidence of a sale agreement over the subject land between the deceased and Charles Juma. According to the Respondent there is no privity of contract between them and the Applicants and so the application is baseless. She further faults the Applicants for carrying out developments on the land in question in acts of trespass and intermeddling with the Estate.
6. Only the Applicants filed submissions on the application. They underscore the averments in their affidavit evidence. Citing the provisions of Section 76 of the *Law of Succession Act*, they submit that the proceedings leading to the issuance of the Grant in favour of the Administratrix are defective in substance and/or fraudulent. It is argued that the Administratrix ought to have disclosed the fact of sale of the land in issue.
7. The Applicants accordingly urge the court to allow the application upon which their protest would be heard and determined on merit.
8. Having considered the parties' rival contentions, sale agreements purporting to evidence sale of the land under reference by the deceased on 3/6/2006 have been exhibited. By Certificate of Confirmation of Grant herein dated 4th April 2009 the same land was ordered transmitted to the Administratrix "To Hold In Trust For Herself And On Behalf Of The Beneficiaries."
9. None of the parties has exhibited title over the land showing in whose name it is registered. The court file does not also contain a copy of the title or certificate of search from the concerned land registry showing registered ownership of the land. The onus was on the Applicants to demonstrate that the land is private property that is not available for transmission to the beneficiaries herein, which burden is not discharged.
10. For the foregoing reasons, the application is dismissed in its entirety. No order is made as to costs.

J. M. NANG'EA,

JUDGE.

RULING DELIVERED THIS 29TH DAY OF MAY, 2025 IN THE PRESENCE OF:

Ms Kemunto Advocate for Mr. Mong'eri advocate for the Administratrix

Ms Kerubo Advocate for the Applicants

The Court Assistant (Jeniffer)

J. M. NANG'EA,

JUDGE.

