



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of M'Twerandu M'Marete alias Tuerandu Marete (Deceased (Succession Cause 251 of 2014) [2025] KEHC 8940 (KLR) (25 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8940 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
SUCCESSION CAUSE 251 OF 2014**

**SM GITHINJI, J**

**JUNE 25, 2025**

**IN THE MATTER OF THE ESTATE OF M'TWERANDU  
M'MARETE ALIAS TUERANDU MARETE (DECEASED)**

**BETWEEN**

**JANET NKATHA M'TWERANDU ..... 1<sup>ST</sup> PETITIONER**

**JOHN MURUNGI M'TWERANDU ..... 2<sup>ND</sup> PETITIONER**

**AND**

**MURIUNGI M'ITUNGA ..... OBJECTOR**

**JUDGMENT**

1. On 27/11/2019, this court (F.M Gikonyo J) revoked the grant of letters of administration intestate issued to the Petitioners on 4/9/2014 and issued a fresh grant of probate to the executor of the will, the Objector herein.
2. Upon conclusion of the testamentary proceedings, the court was informed that the Petitioners had since died and some of the beneficiaries had lost interest in the matter.
3. Francis Kaaria Kioga, an independent witness to the will and Duncan Gichunge Muthuri, the advocate who drew the will testified as PW1 and PW2 respectively, to the effect that the will had met the threshold under section 11 of the *Law of Succession Act*. The witnesses prayed for the will to be deemed as valid and a grant of probate to consequently issue to the Objector.

**Disposition**

4. Having considered the petition by way of cross-petition for grant dated 18/7/2017 together with the evidence led in court, I find the singular issue for determination to be whether the Objector, as the propounder of the will, has unequivocally proved its validity.



5. In his will dated 28/1/2020, the deceased left all his properties to his grandson and 3 sons yet deliberately making no provision for his 2 daughters namely Janet Regeria M'Twerandu and Janet Nkatha M'Twerandu (now deceased).
6. Section 11 of the *Law of Succession Act* provides that; "No written will shall be valid unless:
  - (a) the testator has signed or affixed his mark to the will, or it has been signed by some other person in the presence and by the direction of the testator;
  - (b) the signature or mark of the testator, or the signature of the person signing for him, is so placed that it shall appear that it was intended thereby to give effect to the writing as a will;
  - (c) the will is attested by two or more competent witnesses, each of whom must have seen the testator sign or affix his mark to the will, or have seen some other person sign the will, in the presence and by the direction of the testator, or have received from the testator a personal acknowledgement of his signature or mark, or of the signature of that other person; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary."
7. The will in question was drawn by Advocate Duncan Gichunge Muthuri and attested by two competent witnesses namely M'Ikiugu M'Rintuara (now deceased) and Francis Kaaria Kioga. Francis Kaaria Kioga testified as PW1 categorically stating that he had seen the testator affix his thumbprint on the will. The reason proffered by the deceased for not bequeathing any shares to his 2 daughters was that they were both comfortably married. His evidence was corroborated by PW2, who stated that the deceased had indeed confirmed, in his presence and that of the 2 independent witnesses that the will was an accurate reflection of his wishes.
8. I find that the deceased possessed the requisite testamentary capacity to make the will dated 28/1/2020.
9. I further find that the will dated 28/1/2020 is valid as it strictly complied with the prerequisites set out under section 11 of the *Law of Succession Act*.
10. The upshot from the foregoing analysis is that the Petition by way of cross petition for grant dated 18/7/2017 is merited and it is allowed.
11. The grant of probate issued to Muriungi M'Itunga, the Objector herein on November 27, 2019 is hereby confirmed in terms of the will dated 28/1/2020.
12. Each party to bear own costs.

**DATED AND DELIVERED AT MERU 25<sup>TH</sup> THIS JUNE, 2025**

**S.M. GITHINJI**

**JUDGE**

Appearances:-

Mr. Kaumbi for cross-petitioner

Mr. Kithinji for a beneficiary Both Absent.

They be notified.

