



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Peter Njihia Karanja (Deceased) (Succession Cause E031 of 2024) [2025] KEHC 11760 (KLR) (24 June 2025) (Ruling)

Neutral citation: [2025] KEHC 11760 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
SUCCESSION CAUSE E031 OF 2024
DO CHEPKWONY, J
JUNE 24, 2025**

IN THE MATTER OF THE ESTATE OF PETER NJIHIA KARANJA (DECEASED)

BETWEEN

CHARLES KARANJA NJIHIA APPLICANT

AND

MARIAM MAGOMA RESPONDENT

RULING

1. Before the court is Summons dated 22nd March, 2024 which seeks the following orders:
 - a. Spent.
 - b. Spent.
 - c. Spent.
 - d. That pending the hearing of this application and Confirmation of Grant this Honourable Court be pleased to issue orders the Motor Vehicle Registration KCF 794C with Chasis number Y12-095983 be surrendered to the Applicant herein.
 - e. That in the alternative and without prejudice to the above pending the hearing of this application and Confirmation of Grant this Honorable Court be pleased to issue orders the Motor Vehicle Registration KCF 794C with Chasis Number Y12-095983 be surrendered to the OCS at Kiambu Police Station.
 - f. That costs of this application be in the cause.
2. The Application is based on the grounds as set out on the face of it and the Supporting Affidavit of Charles Karanja Njihia sworn on the instant date. According to the Applicant, he is the proposed administrator and son of the deceased. He has averred that the Respondent illegally possessed the



Motor Vehicle Registration No. KCF 794C and has declined to return the same given that she is not a beneficiary of the Estate hence has no right or claim over the Estate. The Applicant thus contends that it will be in the interest of justice that the application is allowed.

3. The Application is opposed through the Replying Affidavit and Grounds of Opposition of Mariam Magoma both dated 5th June, 2024 wherein she has stated that the application is riddled with material non-disclosure and misrepresentation of facts. According to the Respondent, she was in a loving relationship with the deceased whereby the subject motor vehicle was initially given to her as a gift by the deceased as evidenced in their communications and messages. She avers that the Deceased later pledged the said motor vehicle as security for a loan to the Respondent which agreement was documented. It is the Respondent's contention that her possession of the subject motor vehicle is therefore lawful and based on a valid agreement between her and the deceased. She argues that the application is frivolous and an abuse of court process meant to unlawfully dispose of her rightful security of the loan advanced without any credible evidence to support her possession is illegal. She also argues that the subject motor vehicle should not be considered as part of the deceased's Estate until the loan is repaid in full. Otherwise she holds that the application lacks merit as it has been made in bad faith.
4. In response to this, the Applicant filed a Further Affidavit sworn on 23rd April, 2025 where he contends that the Replying Affidavit of the Respondent is misleading the court as the assertions made therein have not been supported by any documentary evidence. According to the Applicant a gift cannot later be loaned and confirms that all the children of the deceased were aware that the deceased was a member of Desert Oasis Residents Empowerment Programme (DOREP) where the Respondent was his financial advisor. He also confirms that the Deceased took a loan of Kshs. 250,000/= fro DOREP, which loan he re-loaned to the Respondent and he did not hide this information from his children. That the Respondent has never repaid the said loan.
5. The Appellant challenges the validity of the sale agreement and the signature of the Deceased which he avers ought to be evaluated by a document examiner. He disputes the claim that the Deceased never gifted, sold nor pledged the motor vehicle to the Respondent and the same remains part of the deceased's Estate. On his part, the Appellant confirms that he has attached all documentary evidence to support his case and therefore the application ought to be dismissed.
6. The court directed the parties to canvass the application by way of written submissions. The Applicant filed his submission dated 23rd April, 2025 whereas the Respondent's submissions are dated 12th May, 2025.

Analysis and Determination

7. In determining the Summons dated 22nd March, 2024, I have read through the grounds upon which the same is premised both on its face and Supporting Affidavit sworn by the Applicant, the Replying Affidavit and Grounds of Opposition, further affidavit and submissions by both parties herein and found the main issue for determination being:-

a. Whether the application has merits to warrant the orders sought.

8. In answering this question, this Court finds that it is not in dispute that Motor Vehicle Registration No.KCF 794C is registered in the name of Peter Njihia Karanja as indicated in the logbook attached to the Supporting Affidavit of the Applicant. It is also not in dispute that the said motor vehicle is in the possession of the Respondent herein, hence the filing of the application. According to the Applicant, the Respondent possession of the motor vehicle is unlawful and not substantiated or justified since she



is not a beneficiary of Peter Njihia Karanja's Estate. On her part, the Respondent holds that she was engaged in a love relationship with the deceased, and he gifted her the said motor vehicle which he later turned into a security for a loan as evidenced by the Mpesa messages. According to the Respondent, the deceased later used the motor vehicle as security for a loan he took and she cannot release the same until the money is paid. She has attached an agreement which she claims is evidence of her averment.

9. Having carefully read through affidavits and submissions by either party herein, the Court finds that Mpesa messages and or transaction are not sufficient evidence of a marriage or even a love relationship. Be that as it may, what is for determination before this Court is a determination on the issue of possession of the motor vehicle and not the personal relationship between the deceased and the Respondent herein.
10. This Court has read through the loan agreement attached by the Respondent which is indicated as soft loan agreement between the deceased and the Respondent herein for a sum of Kshs. 350,000/=. It is further noted that the agreement indicates that it was indicated that the said Respondent would be in possession of the said vehicle.
11. While the contents of the said agreement have been noted, the Court finds that the motor vehicle is still in the name of the deceased to date and transfer of the same has not been done. Given this position, the Court finds that the motor vehicle ought to devolve back to the Estate of the deceased for purposes of consolidating the deceased's assets and liabilities in the Succession process. The Respondent, if owed by the deceased, can pursue the debt repayment from the Estate of the deceased, and therefore at liberty to do so formally.
12. As a result of the Court's findings, the following orders issue:-
 - a. That the Motor Vehicle Registration No. KCF 794C with Chasis Number Y12-095983 which forms part of the Estate of the deceased be surrendered to the Applicant herein within thirty (30) days of th9s ruling.
 - b. That costs of this application be in the cause.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 24TH DAY OF JUNE 2025.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Makori counsel for Respondent

Court Assistant - Martin

