



**Murithi v Republic (Criminal Appeal E055 of 2024)  
[2025] KEHC 12033 (KLR) (Crim) (30 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 12033 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL APPEAL E055 OF 2024  
AM MUTETI, J  
JULY 30, 2025**

**BETWEEN**

**GERALD MWITI MURITHI ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An appeal from the conviction and sentence Delivered by Honourable Susan Shitumbi (CMS) on 71H May 2024 at Milimani law court in Cr. No. 1022 of 2018)*

**JUDGMENT**

**Introduction**

1. The appellant was charged, tried and convicted of the following charges:-

Count 1

Conspiracy To Defraudcontrary To Section 317 Of The Penal Code

Particulars

Robert K Langat And Gerald Mwit Murithi on diverse dates between 19th July 2014 and 7th April 2017 at Milimani High Court Nairobi within Nairobi County, jointly with others not before court conspired to defraud Kingdom Securities Limited 1,026,700 shares valued at Ksh23,697,131.15/= from the account of Kingdom Securities Limited.

Count 2

Forgery Of Judicial Documents Contrary To Section 351 Of The Penal Code



Robert K Langat And Gerald Mwiti Murithi on unknown date and place within the Republic of Kenya, with intent to defraud jointly with others not before court forged a certain document namely a certificate of confirmation of Grant purporting it to be a genuine certificate of confirmation issued and signed at Milimani High Court by Hon Justice A.O Muchelule.

Count 3

Stealing Contrary To Section 268 (1) As Read With Section 275 Of The Penal Code

Robert K Langat And Gerald Mwiti Murithi on diverse dates between the 8th of March 2017 and the 7th day of April 2017 at Kingdom Securities Limited within Nairobi county, jointly with others not before court stole 1,026,700 shares valued at Ksh23,697,131.15/= the property of Kingdom Securities Limited.

Count 4

Handling Suspected Stolen Property Contrary To Section 322 (1) (2) Of The Penal Code

Gerald Mwiti Murithi on 23rd day of March 2017 and the 7th day of April 2017 than in the course at Kingdom Securities Limited, within Nairobi County, other lea of stealing dishonestly received dishonestly received money from the sale of shares of Ksh23,697,131.15/= into his account number xxxxxx held at Spire bank Waiyaki Way branch in the name of Gerald Mwiti Murithi knowing or having reason to believe it to be stolen property.

2. The appellant dissatisfied with the decision of the learned honorable magistrate appealed to this court on the following grounds: -
  - a. That the Learned Trial Magistrate erred in law and fact in failing to consider evidence tendered on behalf of the accused.
  - b. That The magistrates erred in law and facts by not allowing the policy of: "he who alleges must prove "as required by law in *Evidence Act* Section 107,108 and 109",
  - c. That the trial court convicted and sentenced the appellant of the offence charged notwithstanding, that the evidence relied upon by the prosecution fell too short of the certainty required in law in cases of this nature.
  - d. That the trial court convicted and sentenced the appellant of the offence charged notwithstanding, that the prosecution did not prove the vital ingredients of the offences charged with.
  - e. That the learned magistrate erred in law and fact by failing to find that there was no evidence produced in court to prove that the appellant conspired to defraud.
  - f. That the learned magistrate erred in fact by not finding that no evidence was produced in court to prove that the appellant indeed participated in making the false Judicial document.
  - g. That the trial magistrate erred in law and fact by convicting the appellant on the prosecution case that lacked watertight investigation, concrete evidence and circumstantial evidence as the prosecution failed to bring any witness from both the
  - h. That Kingdom securities and spire Bank to prove the ownership of the accounts that were used to transfer of the Loqus in quo.



- i. That the trial magistrate erred in law and fact by admitting as evidence the document tendered by the document examiner prosecution did not produce in court any document/inventory of the specimen hand writing that was taken from the appellant to prove the author of the signatures in the documents produced in court by both the Kingdom Securities and the Spire Bank as evidence.
  - j. That the trial magistrate erred in law and fact by admitting as evidence the documents tendered by the prosecution from both the Kingdom Securities and Spire Bank as they did not contain any photograph of the appellant.
  - k. That the trial magistrate erred in law and fact by not finding that the prosecution did not call some crucial witnesses whose names were mentioned throughout the trial as their evidence could be adverse to their case.
  - l. That the trial magistrate erred in law and fact by shifting the burden of proof on the appellant.
  - m. That the sentence imposed on the appellant is harsh, excessive and punitive.
3. The duty of this court as a first appellate court is to reevaluate the evidence tendered before the lower court and draw independent conclusions on the matter taking into account the fact that the court unlike the trial court did not have the opportunity to hear and see the witnesses. The appellant is entitled to the full benefit on analysis of evidence by this court in order for the court to satisfy itself that the ingredients of each and every one of the offences charged were proved beyond reasonable doubt.
  4. In the often cited case of *Okeno v Republic* [1972] EA 32 at 36 the East Africa Court of Appeal stated on the duty of the Court on a first appeal: “An appellant on a first appeal is entitled to expect the evidence as a whole to be submitted to a fresh and exhaustive examination (*Pandya v. R.*, [1957] E. A. 336) and to the appellate court’s own decision on the evidence. The first appellate court must itself weigh conflicting evidence and draw its own conclusions. (*Shantilal M. Ruwala v. R.*, [1957] E.A. 570). It is not the function of a first appellate court merely to scrutinize the evidence to see if there was some evidence to support the lower court’s findings and conclusions; it must make its own findings and draw its own conclusions. Only then can it decide whether the magistrate’s findings should be supported. In doing so, it should make allowance for the fact that the trial court has had the advantage of hearing and seeing the witnesses, see *Peters v. Sunday Post*, [1958] E. A. 424.”
  5. The prosecution bears the burden of proving all the ingredients of the offences that the appellant is charged with, tried and convicted. The standard of proof is beyond a reasonable doubt and where the prosecution fails to adequately prove any of the elements of the offense an acquittal must result.
  6. In *Peter Mwangi Kariuki v Republic* [2015], Justice Mativo (as he then was) observed that:
 

“...Thus, the legal burden is the burden of proof which remains constant throughout a trial; it is the burden of establishing the facts and contentions which will support a party’s case. If at the conclusion of the trial the prosecution has failed to establish these to the appropriate standard, the prosecution will lose. It is clear the legal burden of proof in criminal cases is only one and rests on the shoulders of the prosecution. The burden of the prosecution in criminal cases is to establish its case beyond reasonable doubt...”
  7. The appellant has condensed his grounds of appeal into two namely;-
    - i. Whether the Honorable court shifted the burden of proof to the appellant
    - ii. Whether or not the prosecution proved its case beyond any reasonable doubt.



8. The court directed parties to file submissions in this matter and the appellant complied vide his submissions dated 18<sup>th</sup> February 2024. The respondent despite being indulged by the court on multiple occasions failed to do so thus the court has proceeded to consider the appellants appeal without the benefit of any submissions by the respondent.

### **Analysis Of The Evidence And The Law**

9. The prosecution called PW1 Cecilia Wairimu Karimi who testified that in July 2014 she lost her father Joseph Karimi. Her mother Margaret Wambui had passed on in June 2008. According to the witness Joseph Karimi died intestate and the family resolved in a meeting held on 14<sup>th</sup> June 2014 to engage the services of a lawyer to assist them in processing letters of administration of their late father's estate.
10. PW1 testified that they appointed an Advocate by the name Robert Lagat and she produced minutes confirming the resolution of the family as well as the appointment of the advocate.
11. PW1 also produced a letter containing the list of beneficiaries of the estate of the deceased and that list did not include the appellant in this matter. The witness went on to testify that after instructing the lawyer they waited for 6 months and they sought to find out from him what had happened after 6 months. According to PW1 the lawyer informed them that he had filed all the documents with the registrar in Milimani Law Courts but they later became suspicious of the conduct of the advocate.
12. PW1 went on to state that on 17<sup>th</sup> of May 2018 together with her sister Agnes Karimi they went to the Family Division Registry in Milimani and to their utter shock and dismay they discovered that file No. 3201 of 2014 was opened in respect of their father's estate and there was a confirmation of grant that had been issued. The witness testified that they discovered among the beneficiaries was a person by the name Gerald Mwiti Murithi ID NO. xxxxxx who he was listed as a son of the deceased. The name of Gerald appeared on the consent to the certificate of confirmation of grant.
13. PW1 went on to state that she also discovered that her sister's name Charity Wangui Karimi was altered to read Charity Wangui Mureithi ID NO. xxxxxx. She also noted her brothers name Paul Githinji Karimi was altered to read Paul Githinji Murithi ID NO. xxxxxx.
14. According to PW1, the signatures appearing on the forms were not those of the real beneficiaries and in particular she raised concern about her own signature . Further, PW1 testified that the father left behind shares at Standard Invest and Kingdom Securities. According to her, the shares at Kingdom Securities were worth over 25 million and when they went to check they found that all the shares had been transferred and the balance was nil. It was then that they decided to report the matter to the Capital Markets Authority for investigations.
15. PW1 testified that Gerald Mwiti Murithi was unknown to her and she had never heard of him and she could not identify him even at the dock.
16. The prosecution called PW2 Julianna Mutai an employee of Corporation Bank who had previously worked with Kingdom Security and she confirmed that in the year 2017 she processed and RTGS for the sum of Kshs.17,515,034.30 into the account number was 007-xxxxxx in the name of Gerald Mwiti Murithi. The money went to Spin Bank Waiyaki Branch. According to the witness there were attached securities order forms in the name of Gerald Mwiti Murithi as well as a copy of his ID.
17. PW2 approved the payment and the money went to Gerald Mwiti Murithi as per the instructions.
18. PW3 Hucinth Mochane testified that she also worked with Kingdom Securities and Gerald Mwiti Murithi operated an account with them being account number xxxxxx opened on 20<sup>th</sup> of March 2017.



She testified that she never saw the client but the account was opened by one of her colleagues Nickson Odhiambo.

19. PW4 was Jane Gathoni Karimi a sister to PW1 who corroborated the evidence of PW1 in material particulars. She specifically stated that the consent form to the Certificate of Confirmation dated 30<sup>th</sup> August 2016 had strange names of Gerald Mwiti Murithi, Charity Wangu Murithi and Paul Githinji Murithi. According to her all signatories were forged including her own signature
20. The witness said that she learned from her sisters that the shares at Kingdom Securities had been sold and that the beneficiary was Gerald Mwiti Murithi whom she did not know and was not the deceased's son.
21. She confirmed that they had instructed a lawyer by the name Lagat who filed the succession course.
22. PW5 Aman Wandera stated that he worked Spire Bank as a security officer and that they received a request to avail documents touching on account number xxxxxx in the name of Gerald Mwiti Murithi which account was opened on 7<sup>th</sup> of March 2017. The witness confirmed that they provided the documents requested which included the RTGS documents showing transfer of money from Kingdom Securities Limited in the sum of Kshs. 17,515,034.30 credited to the account of Gerald Mwiti Murithi on 20<sup>th</sup> of March 2017 and another RTGS for the sum of Kshs. 6,182,096.85 credited to Gerald Mwiti's account. The witness produced all the documents as Exhibits 22, 23, 25, 26 and 27.
23. The prosecution also called PW6 Elizabeth Muthoni Ndungu who worked with the Central Depository and Settlement Corporation. The witness explained the process of buying of shares and according to her she was asked to do a statement in respect of investigations touching on account number xxxx which was an account held by Joseph Karimi Karuhi. The witness testified that they provided documents as requested. She went on to testify:-
  - a. Cover letter form Kingdom securities requesting for transfer of shares Vanis shares were listed in that letter, (shows MFI12a)
  - b. They were also asked for transfer of shares from Joseph Karimi Kamihi to Gerald Mwiti Murithi. There people each had a different CDSC account.
  - c. The CDSC account No. for Joseph Karimi is xxxxx in CDSC for Gerald Mwiti is xxxxxx.

On the same letter they listed the securities that we were supposed to transfer. The security to be transferred to Gerald Mwiti were O BAT 565 shares

Barclays/Absa xxxxxCron Bergs 3300Britam 32,000Fit cables 2,500CFC 1733Cfci 1271Cis 12600Coorporative bank 42,000DTK Ban 2858EABL 12,186Equity bank 25,000Eveready 101,500Firestone 2,000OSOSHFCK 44,550ICDC 97,211Jubile 1685KC Bank 308,360Kengen 35,695Kenol 154,800

Yes all the shares were transferred and requested on 16th March, 2017

I have no transfer documents used to transfer the shares, the form is dated 8th March, 2017, it is form CDC7 it is normally file by the stock brokers when shares are being transferred from (shows MFI130) it comes from Kingdom securities the broker at the declaration point administration of the estate and supposed to sign then the one receiving the stock broker representative too should sign. In this



case Gerald Mwiti Mutithi signed the documents, supporting the transfer was a grant of letter of administration. Showing the administration of the estate of Joseph Karimi Karuhi (shows MFI31)

The second supporting of the documents that was also provided to the certificate of confirmation of grants (shows MFI132)

There was also the death certificate in the name of Joseph Karimi Karuhi shows MFI 33

It was Issued On 31st July, 2020 it is serial number 00xx-xxx

the death certificate was supplied by Kingdom securities the next

documents that was provided to the unit was copy of ID copy of John Mwangi Karimi shows MFI34.

There was ID copy of Jane Gathoni Karimi (shows MFI35)

The last document that we provided was an ID Cop of Gerald Mwiti Muriithi Shows MFI36.

The ID copies of Jane and John Mwangi name to administrative of the estate of Joseph Kariuki Karuhi Gerald Mwiti Muriith was the beneficiary of the estate. We were to check if all the documents were provided that is

Certificate of grant Confirmation of grant Death certificate ID copies

There were the documents that we requested and they were also provided (shows MFI32) for confirmation of grant we check to see whether the shares in question was listed.

This shows on the cover letter was all listed and Gerald Mwiti Muriithi was to get all of them.

When we confirmed that all documents were provided all forms certified and the shares in our system, we transferred all shares from

Joseph Karimi Kariuki to Gerald Mwiti Muriithi. I don't know any of the parties. We don't get into contact with the members.

I now wish to produce the documents is exhibits (Ex 29-36)"

8. PW8 Inspector Gilbert Kipng'eno Tanui a trained and qualified forensic document examiner testified on behalf of Susan Wambugu a fellow document examiner who had prepared a forensic examination report. According to him he was familiar with her handwriting and her signature and he confirmed that the report was prepared by his colleague.
9. He testified that the examiner examined and compared signatures on an Exhibit marked B-1 (Certificate of Confirmation of Grant) with an Exhibit marked C (Specimen Signature of Hon. AO Muchelule dated 11<sup>th</sup> December 2015). In the examiner's opinion the signatures were made by different authors. He went on to testify that the documents bearing the signatures of John Mwangi Karimi, Jane Gathoni Karimi were also made by different authors thus the signatures were confirmed to have been forged.



10. The prosecution led the evidence of Simon Wasilwa, a Senior Court Administrator PW9 who testified that the Certificate of grant dated 19<sup>th</sup> of October was not authentic and did not originate from the court proceedings.
11. The witness also confirmed that the purported affidavit in support of the summons and the consent for certificate of confirmation of grant dated 30<sup>th</sup> August 2016 were not filed in court.
12. Lastly, PW10 C.I Samuel Chomo a CID officer attached to Capital Markets Fraud Investigation Unit testified as the Investigating Officer and he produced all the documents that were relied on to have the funds transferred from Kingdom Security to the account of the appellant as well as the identity documents of the appellant as provided by the registrar of persons. His evidence confirmed that shares from the late John Kirimi were transferred to the appellant by the use of a forged certificate of grant and that the appellant received funds in his account as a result of the transfer of the shares.
13. Further, there was forensic evidence from the document examiner which clearly indicated that documents used to facilitate the transaction bore signatures of the appellant and that the appellant was listed as a beneficiary in the estate of the deceased yet the two had no relation. The witness testified that he did not find any communication between the appellant and the lawyer who had been instructed by PW1 and the family however the appellant was listed as a beneficiary thus by implication he must have communicated with the advocate who filed the succession course and immediately went underground after the transfer of funds.
14. In his defence the appellant admitted that he was not known to PW1 and that the consent to Certificate of Confirmation of grant bore his name and ID number. The certificate had the stamp of R.K Lagat and advocates and according to the appellant Langat Advocate must be the one who authored the documents.
15. The appellant stated that he did not know how his name got to be listed in the list of beneficiaries and that he did not know the rest of the beneficiaries. That defence essentially corroborated the evidence of PW1 that indeed the appellant was a stranger to the estate of the deceased. Further the appellant confirmed that there was a CDSC account opened at Kingdom Securities under his name but he denied being the person who instructed the officer at Kingdom Securities to open the account. In short, the appellant denied opening the bank account at Spire Bank where the proceeds of the sale of the shares were deposited but he was silent as to whether he had accessed that account and whether he was the beneficiary of the funds. He also denied forging Hon. Justice A.O Muchelule is signature in the Certificate of grant.
16. Regarding the use of his identity card the appellant claimed to have lost the ID card in town following a pickpocketing incident in town. He claimed that the persons who opened the accounts at Spire Bank must have obtained his pin certificate form a cyber cafe.
17. The evidence recorded by the trial court established the following:
  - i. The appellant was not a son of the deceased and therefore he was a stranger to the estate of the deceased
  - ii. The appellant was not entitled in law to be a beneficiary of the estate of the deceased a fact the appellant did not deny.
  - iii. The deceased held shares at Kingdom Securities and that those shares were transferred to the appellant at his request in dubious circumstances



- iv. The shares were sold and the proceeds of the sell deposited in an account operated by the appellant at Spire Bank
  - v. The CDS account opened at Kingdom Security in the name of the appellant was the utility vehicle used to convert the shares of the deceased and facilitate the sell of the same.
  - vi. The documents used in opening the CDS account at Kingdom Security were those of the appellant and the forms signed during the opening of the account bore his signatures.
  - vii. The bank account at Spire bank was opened in the name of the appellant using his national ID and his pin certificate .
  - viii. That the proceeds of the sale of shares were wired into the account at Spire Bank on instructions of the appellant.
  - ix. The Certificate of confirmation of grant used to facilitate the unlawful transfer and sale of the deceased's was forged.
  - x. R.L Lagat advocate was the advocate instructed by members of the deceased's family to file the succession course and it was that succession cause where the appellant's name featured as a beneficiary in the certificate of confirmation of grant
  - xi. The defense tendered by the appellant was a mere denial but of importance the appellant admitted that his personal documents i.e the National ID and Pin Certificate were used in the processing of the entire transaction.
18. This court has considered all the above and from the outset it is clear that Robert Lagat Advocate together with the appellant hatched an elaborate scheme to defraud the estate of the deceased. Though the appellant denies ever communicating with Lagat Advocate the use of his national ID and his PIN certificate directly connected him to the matter.
  19. The appellants name could not have found its way into court documents filed by Advocate Langat who had been instructed by the deceased's family together with a copy of his Identity card without his involvement.
  20. The evidence from Kingdom Securities was clear that he signed the documents that opened the CDS account and it cannot therefore be accepted by this court that his ID and PIN certificate were stolen from him and used by other persons to perpetuate the fraud. The coincidences are just too many to be true.
  21. The circumstantial and direct evidence against the appellant leaves no doubt that he was a principal offender and that he was at the core of the conspiracy to defraud the deceased's estate.
  22. It is highly unbelievable that a pickpocket in town would pick the appellant's Identity card, proceed to a cybercafe and download his PIN certificate and then move to Milimani Family Division Registry, locate the file in respect of the deceased's Succession cause, insert the appellant's name in the list of beneficiaries and upon issuance of a forged certificate of confirmation of grant, discover that the deceased held shares at Kingdom Securities then proceed to have the shares appropriated in the appellants name and sold with the proceeds being deposited in an account held by the appellant! The coincidences are just too precise and not humanly possible.
  23. The court is persuaded that the appellant throughout the process worked with Robert Lagat Advocate and unlawfully transferred the shares of the deceased to himself and received the proceeds of the sale of those shares.



24. The trial court received expert evidence that forensically connected the appellant to the whole transaction thus eliminating any possibility of the unlawful and unauthorized use of his documents in the entire transaction. In *AG v Republic (Criminal Appeal E008 of 2021) [2022] KEHC 11299 (KLR)*, it was held:

“Firstly, expert evidence does not ‘trump all other evidence.’ Judges are entitled to disagree with an expert witness. Expert testimony must be assessed against established facts, with primary factual evidence bearing greater significance. Secondly, expert evidence must be considered in context and not in isolation. It should not be artificially detached from the broader evidentiary record. A court’s findings are often formed through the interaction between expert and factual evidence. Thirdly, where conflicting expert opinions exist, the court must evaluate them against the backdrop of all other admissible evidence and provide reasons for preferring one over the other. Lastly, a judge must consider the entirety of the evidence, including that provided by experts, before arriving at any factual conclusions.”

25. The court considered the expert opinion of the document examiner alongside the evidence of the other witnesses and all the evidence pointed to a well knit web of conspiracy between the appellant and Robert Lagat Advocate. The argument by the appellant that he never communicated with Robert Lagat is neither here nor there for he did not even shed light as to when he lost his Identity card if at all he did and if so, he did not also show any evidence of reporting the loss of his Identity card as was required of him.

26. The fact of loss of the identity card was a matter within his special knowledge thus he was under duty to disclose the information to the trial court pursuant to the provisions of Section 107 of the *Evidence Act*. Since the appellant wished to have the court believe in the fact of loss of his identity card, the burden of proof lay upon him to establish the fact of loss.

27. The forged signatures of the appellant would not have been on the CDS account opening documents if indeed his documents were stolen and used by other persons behind his back.

28. The forgery of the certificate of confirmation of grant was the seminal seed sown by Robert Lagat Advocate and the appellant that quickly germinated and grew into creation of a CDS account in the name of the appellant and sold which eventually saw the shares of the deceased transferred to the appellant sold. The evidence tendered by the prosecution established several aspects of forgery right from the consent to the certificate of confirmation of grant all through to the CDS account opening.

29. The circumstantial evidence irresistibly points at collusion and conspiracy between the appellant and his co-accused in the lower court.

I. The law on forgery was aptly captured by Mativo J in *Caroline Wanjiku Ngugi v Republic [2015] eKLR Nairobi High Court Criminal Appeal No. E 055 of 2024 – Gerald Mwiti Murithi vs Republic* where he held that: “Forgery is the false making or material alteration of a writing, where the writing has the apparent ability to defraud and is of apparent legal efficacy with the intent to defraud. Thus the elements of forgery are:-i. False making of – The person must have taken paper and ink and created a false document from scratch. Forgery is limited to documents. “Writing” includes anything handwritten, type written, computer generated or engraved.ii. Material alteration – the person must have taken a genuine document and changed it in some significant way. It is meant to cover situations involving false signatures or improperly filing in blanks on a form or altering the genuine contents of the document.iii. Ability to defraud – The document or writing has to look genuine enough to qualify as having ability to mislead others to think its genuine.iv. Legal efficacy – the document or writing has to



have some legal significance.v. Intent to defraud – the specific state of mind for forgery does not require intent to steal but only intent to fool people. The person must have intended that other people regard something false as genuine. A forgery may be committed either by handwriting, through the use of type writer or a computer.”

30. The appellant and his accomplice by forging the certificate of confirmation of grant knew that they were making a false document and that the inclusion of the appellant as beneficiary was a material alteration to the list of beneficiaries.
31. The actions of the two aided the fraudulent transfer and sale of the deceased’s shares which would not have been possible without using the forged certificate of confirmation of grant.
32. The intention to defraud was undoubtedly predominant in every step they took and they actually ended up defrauding the estate. The core requirement of a meeting of minds to commit an illegal act or an act by illegal means was there in the entire transaction.
33. This agreement can be inferred from circumstantial evidence tendered connecting the appellant to all the stages in the processing of the transaction. The overt acts of preparing the consent to the certificate of grant, the opening of the CDS account and the instructions to transfer and sale the shares completed the essential ingredients of conspiracy.
34. The argument by the appellant that there was shifting of the burden of proof is without merit considering the totality of the evidence and the defense tendered by the appellant. The appellant could not extricate himself from the numerous actions and his finger prints were all over the in the process leading to the illegal appropriation of the deceased’s shares.
35. The defense did not displace the prosecution’s case in respect of all counts. The transfer of the shares into his own name was intended to deprive the estate and the rightful beneficiaries of the same. The elements of stealing the shares and the money were adequately proved since the proceeds were traced to his account. He was not entitled to a share of the estate of the deceased thus he was properly convicted and sentenced.
36. In the case of Nicholas Akala Mumbo v Republic [2019] eKLR , cited by the trial court , the accused was convicted at the lower court for conspiracy to defraud. The accomplice was not in court but the accused was the mastermind of the offence. The High Court upheld the conviction, and it stated that:“...appellant and his accomplices, one of whom was Hannington Nyaora, deceived the complainant that the subject land belonged to Hannington Nyaora as a result of which they defrauded the complainant of her money. The appellant was well aware that the land did not belong to the said person. The charge of conspiracy to defraud was sufficiently proved.”
37. Similarly, in this case the appellant was not a beneficiary of the deceased’s estate thus his actions were purely fraudulent.
38. The forgery of judicial documents is something that cannot be countenanced in any civilized society. The action of the appellant and his accomplice must be condemned and adequately punished. The appellant is a very dangerous man who should be kept away from other civilized and law abiding members of society. He is in his rightful place and he should continue serving the sentence. The case against him was proved beyond a reasonable doubt thus his appeal has no merit and the same is hereby dismissed on both conviction and sentence.
39. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 30<sup>TH</sup> DAY OF JULY 2025.**



**A. M. MUTETI**

**JUDGE**

In the presence of:

Court Assistant: Kiptoo

Murithi h/b Kathaurima for the Appellant

Ms Dela for the Respondent

Applicant: Present at Nairobi West Prison

