



**In re Estate of JNM (Deceased) (Succession Cause E650 of 2023)  
[2025] KEHC 12472 (KLR) (Family) (3 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12472 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E650 OF 2023  
SN RIECHI, J  
SEPTEMBER 3, 2025  
IN THE MATTER OF THE ESTATE OF JNM - (DECEASED)**

**IN THE MATTER OF**

**EWN ..... 1<sup>ST</sup> APPLICANT  
EWN ..... 2<sup>ND</sup> APPLICANT  
VMN ..... 3<sup>RD</sup> APPLICANT**

**RULING**

1. JNM the deceased, died on 14th March 2023 at Nairobi hospital at the age of 71 years. EWN, EWN and VMN filed petition for Letters of administration *ad colligenda bona* on 26<sup>th</sup> April 2023 to gather and preserve the property of the estate while awaiting the filing of the petition and issue of full grant. Limited Grant of letters of administration *ad colligenda bona* was issued to the applicants on 30<sup>th</sup> May 2023 by Nyaundi J.
2. Armed with the limited Grant the administrators wrote to the tenants of the Deceased's property directing them to pay rent to them.
3. They later learnt that IKM was intermeddling with the estate on the grounds that she was also a widow of the deceased having married under customary law and blessed with two issues of the marriage namely AGN And AGN2.
4. The Administrators disputed paternity of these children. They then filed Summons dated 13th September 2024 seeking the following orders:
  1. That this Application be certified as urgent and service be dispensed with in the first instance.



2. That this Honourable Court be pleased to Order that the D.N.A of the following minors namely A.G.M and A.G.N be conducted.
  3. That this Honourable Court be pleased to order that samples be taken from the Deceased body which is buried in Rwambiti Sub- County, Kirinyaga County.
  4. That upon granting prayer 3 above the Deceased's grave situated in Rwambiti SubCòunty, Kirinyaga County be unsealed and opened to exhume his remains with a view to harvesting samples therefrom for purposes of Deoxyribonucleic Acid (D.N.A) tests.
  5. That officers of the Kenya Medical Research Institute do undertake/oversee the disinterment and do harvest the necessary samples for D.N.A testing.
5. This Court directed that the application be canvassed by way of viva voce evidence. EWN testified that she was married to the deceased on 29<sup>th</sup> December 1979. The had two issues of the marriage;
1. EWN
  2. VMN
6. She testified that they were married for a period of 43 years and that he did not tell her that he had another family or children outside their marriage. She stated that if it is true that the deceased had other children which she disputes, then the remains of the deceased should be exhumed from its burial place at Baragoi/Land/8085 and samples extracted for purpose of DNA analysis. She confirmed that if DNA proved deceased was the father then I's children will be included as beneficiaries.
7. IKM testified that she married a deceased in 2008 and in 2023 they did a customary wedding blending Kikuyu and Kamba customary marriage rites. They were blessed with two children AGN born on 9<sup>th</sup> August 2015 and AGN2 born on 17 April 2017. She annexed the birth certificates of the two children. She testified that the deceased made their matrimonial home in Rwambiti in Kirinyaga and that is where he was buried. Esther does not stay there. She stated that she is not opposed to the application to DNA in respect of her children to confirm paternity. She is however opposed to exhumation due to culture for extraction of the body tissue to obtain samples. She proposes that siblings DNA sampling be done on both her children and the children of Esther.
8. From the applicant's affidavit and evidence it is clear to me that both Esther and I both claim to have sired children with the deceased. Irene does not dispute that Esther and deceased had 2 children. EWN (2nd Applicant) and VMN (3rd Applicant). I in response to the Applicant for exhumation of deceased to obtain DNA sample proposes that there be conducted a sibling DNA between the children of Esther (not disputed) and her children AN and AGN2.
9. As the court has observed in many decisions on the issue of exhumation, customary norms require that a deceased person whose body has been interred is allowed to rest in peace. Where there are other credible options of establishing paternity the same should be explored and if appropriate be resorted to. Technology has now availed options of DNA samples other than body issue of the deceased. DNA samples can be obtained from items used by the deceased such as shaver, hair, toothbrush etc. Sibling DNA test compare the genetic markers of the two individuals to determine likelihood that they share one or both parents. In short the technology has now enabled the deceased to rest in peace even when there are disputes among loved ones.
10. After considering the Applicant's evidence and submissions, I do not find it necessary to exhume the body of James Muturi interred in Kirinyaga. As both parties agree on DNA analysis I do order that



sibling DNA analysis be done at the Government Chemist Nairobi. The DNA samples to be extracted from EWN 2nd Administrator and VMN 3rd Administrator and AGN and AGN2

11. The DNA sample extraction and analysis be done within 90 days from the date of this order. Expenses for the test to be paid by the Administrators from the estate.

**DATED AT NAIROBI THIS 3<sup>RD</sup> DAY OF SEPTEMBER, 2025**

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**S.N. RIECHI**

**JUDGE OF THE HIGH COURT OF KENYA, NAIROBI**

