



**In re Estate of Leah Kabura Mungai (Deceased) (Succession Cause  
998 of 2019) [2024] KEHC 15394 (KLR) (Family) (30 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 15394 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 998 OF 2019  
EKO OGOLA, J  
JANUARY 30, 2024  
IN THE MATTER OF THE ESTATE OF THE LATE LEAH KABURA MUNGAI (DECEASED)**

**BETWEEN**

**IRENE WANJIRU WAGEMA ..... ADMINISTRATOR**

**AND**

**KENYATTA NDIRANGU MUNGAI ..... 1<sup>ST</sup> PROTESTOR**

**JOHN NDUNG’U MUNGAI ..... 2<sup>ND</sup> PROTESTOR**

**RULING**

1. The deceased died intestate on 21<sup>st</sup> April 2006. She was survived by five children namely; Edith Njeri Mungai, John Ndungu Mungai, Irene Wanjiru Wagemu, Anita Nduta Mungai (deceased) and Kenyatta Ndirangu Mungai. Grant of Letters of Administration Intestate was issued on 30<sup>th</sup> October 2019 to Irene Wanjiru Wagemu.
2. What is before this court for determination is the Summons for Confirmation of Grant dated 9<sup>th</sup> December 2020. The administrator prays that the grant issued to her on 30<sup>th</sup> October 2020 be confirmed and the estate be distributed as per the mode of distribution annexed to the summons.
3. On 15<sup>th</sup> December 2020, one of the beneficiaries, John Ndirangu Mungai filed an Affidavit in protest to the confirmation of the grant. As a rebattle, the administrator filed a Supplementary Affidavit dated 11<sup>th</sup> March 2021.
4. The beneficiaries opted to have an out-of-court discussion on the mode of distribution. The administrator averred that during the meeting, all beneficiaries agreed on a mode of distribution and save for Kenyatta Ndirangu Mungai, have signed the said consent. The consent to the mode of distribution is dated 26<sup>th</sup> April 2023.



5. On 2<sup>nd</sup> May 2023, the 1<sup>st</sup> protestor Kenyatta Ndirangu Mungai was directed to file his proposed mode of distribution. At the time of writing this ruling, the 1<sup>st</sup> protestor had not filed his proposed mode of distribution despite being duly served with the court's orders and directions.

### **Determination**

6. I have considered the summons and the entire record of the court. The issue for determination is whether the grant dated 30<sup>th</sup> October 2019 should be confirmed. Section 71 of the [Law of Succession Act](#) provides that:-

“After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.”

7. The 1<sup>st</sup> protestor refused to consent to the mode of distribution but he failed to propose a mode of distribution. In my view, this is intentionally delaying the administration of the deceased estate. The grant was issued in 2019. The administrator was required to petition this court to confirm the grant to empower distribution. The distribution should not be delayed any longer. Since the 1<sup>st</sup> protestor has not given any tangible reason as to why the estate should not be distributed as agreed by the other beneficiaries, I see no reason not to grant the orders sought.
8. From the foregoing, the Summons for Confirmation of grant dated 9<sup>th</sup> December 2020 is hereby allowed. I make the following orders:-
- a. The Grant of Letters of Administration Intestate issued on 30<sup>th</sup> October 2019 to Irene Wanjiru Wagemu is hereby confirmed.
  - b. The estate of the deceased be distributed according to the consent of mode of distribution dated 26<sup>th</sup> April 2023.
  - c. Costs be in the cause.

Orders accordingly.

**DATED AND DELIVERED AT NAIROBI THIS 30<sup>TH</sup> DAY OF JANUARY 2024**

.....

**E.K. OGOLA**

**JUDGE**

In the presence of:

Mr. McDonald for the Administrator

Mr. Mucheru for the protestor

Gisiele Muthoni Court Assistant

