



**In re Estate of David Mugo Marai (Deceased) (Succession Cause
3442 of 2003) [2024] KEHC 331 (KLR) (Family) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 331 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 3442 OF 2003
HK CHEMITEI, J
JANUARY 25, 2024
IN THE MATTER OF THE ESTATE OF DAVID MUGO MARAI (DECEASED)**

BETWEEN

MARION WANJIRU MUGO APPLICANT

AND

LEAH NYAMBURA MUGO 1ST RESPONDENT

GEORGE WAMBURA MUGO 2ND RESPONDENT

RULING

1. In her summons dated 28th October 2022 the applicant prays for the following orders:
 - “(a) That the court be pleased to grant interim orders stopping the respondents from selling any property without the court consent or by consent of all beneficiaries.
 - (b) That the respondents be removed as administrators and the applicant and Tom Richard Marai Mugo replace them.”
2. The application is based on her sworn affidavit dated the same date as well as the grounds on the face of the application.
3. The substance of her complaint is that she is one of the beneficiaries of the estate and the respondents who are administrators did sale shares of Gatatha company without her knowledge or consent.
4. She further complained that she has not been consulted for any meetings and that the respondents have failed to provide accounts as expected.



5. The respondents vide their joint affidavit dated 14th July 2023 have denied the applicants averments. They went ahead to attach the copies of accounts including mpesa transactions of how they have utilised the funds from the estate. They also explained how they have filed a suit for eviction of illegal occupants of land parcel number Ruiru West /Block 1/1881.
6. The respondents further attached accounts in respect to the sale of shares at Gatatha farmers' cooperative limited which proceeds were paid out to the beneficiaries including the applicant who received Kshs 35,000.
7. The respondents complained that the applicant has continuously frustrated their efforts of managing the estate including taking away the title documents hence unable to carry and execute the grant herein.
8. When the matter came up for directions the court ordered the parties to file written submissions which they have complied. The court need not reproduce the same here save to state that each is as expected pulling towards the issues raised in the respective rival affidavits.
9. The basic issue here and was well captured by the parties is whether the respondents have executed the grant which was confirmed on 5th August 2022 to the letter. From the said grant it is evident that the shares at Gatatha Farmers Limited were to be sold and proceeds shared equally among the beneficiaries. There were other assets which the same was to apply.
10. I have seen the minutes dated 25th September 2022 titled family meeting where the sale of the said shares was agreed. Subsequently they agreed to utilise the amount including each beneficiary getting Kshs 35,000.
11. It is not disputed that the applicant was not in the said meeting for reasons known to her. In her affidavit she said that she was never invited.
12. Nonetheless subsequently she accepted the Kshs35,000 given to each beneficiary. If she was not contented with the sale and the arrangement made by the respondents and the other siblings she should not in my view have accepted the said amount. By accepting it she endorsed the decisions to sale the shares. In short she acquiesced.
13. Secondly, I have perused the accounts provided by the respondents. They look reasonable in my view. The amount set aside for litigation is well explained as well as other expenses. It is to the interest of the estate that the illegal squatters at Ruiru West Block 1/1881 be evicted and the only sensible way of raising the legal charges was through the estate.
14. In my view therefore I do not see any reason to fault the respondents. The administrators in this case have not disagreed whatsoever and I do not find any reason to appoint a new cohort who should include the applicant. It shall not serve the interest of justice.
15. The respondents in my view have acquitted themselves well through the explanations in their affidavit as well as the accounts rendered therein. They have in fact admitted to pay any amount incurred by the applicant which ought to have been borne by the estate.
16. The only issue is to complete the exercise. The applicant ought to surrender any legal document she is holding on behalf of the estate. She should not hold the estate at ransom. In short she should not impede the work of the respondents.
17. In any case she is free to challenge any untoward act by the respondents.
18. In the premises I do not find any merit in the application and the same is hereby dismissed with no order as to costs.



DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 25TH DAY OF
JANUARY 2024.

H K CHEMITEI.

JUDGE

