



**In re Silas Muriithi Mugambi (Deceased) (Succession Cause
23 of 2009) [2024] KEHC 382 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 382 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 23 OF 2009
TW CHERERE, J
JANUARY 25, 2024
IN THE MATTER OF SILAS MURIITHI MUGAMBI (DECEASED)
AND
IN THE MATTER OF REDISTRIBUTION OF THE SHARE FOR
ERICK MWENDA MURIITHI (DECEASED BENEFICIARY)**

BETWEEN

LUCY KINANU MURIITHI 1ST PETITIONER

DR GEORGE KOOME MURIITHI 2ND PETITIONER

AND

SNM RESPONDENT

RULING

1. The Certificate of Confirmation in this cause was issued on 20th August, 2013 and out of the estate, a number of 5 assets were distributed to Erick Mwenda Muriithi (Deceased Beneficiary) and other beneficiaries.
2. Erick Mwenda Muriithi (Deceased Beneficiary) died on 18th July, 2023 and I am surprised that until them which is a period of 10 years since the Certificate of Confirmation, only one of the assets had been transmitted to him. I will come back to the issue of the failure by the Petitioners to distribute the estate later in this ruling.
3. By summons dated 13th October, 2023, Applicants seek orders that:
 1. Rents due and payable to Erick Mwenda Muriithi (Deceased Beneficiary) be deposited into account No. 011XXXXX Co-operative bank Meru in the names of Petitioners for purposes of sharing the same to Erick Mwenda Muriithi's children SNM and SK (Minor)



2. The Certificate of Confirmation issued on 20th August, 2013 be rectified to the effect that the shares of Erick Mwenda Muriithi (Deceased Beneficiary) be given to SNM and SK (Minor) being held in trust by the 2nd Petitioner and Carol Daisy Mwende Ngai the minor's mother until she attains the age of majority
4. The application which is supported by an affidavit sworn by the 2nd Applicant on 13th October, 2023 is based on the ground that Erick Mwenda Muriithi (Deceased Beneficiary) is survived by SNM (27 years) and SK (8-year-old minor) and that it is only fair and just that his entitlement be transmitted for the benefit of his children.
5. In her response dated 23rd November, 2023, SNM, the Respondent argues that she is of age and able to manage her father's estate. Respondent contends that Applicants who have failed to distribute the estate for the last 10 years cannot be trusted to manage her father's estate.
6. The estate herein belongs Silas Muriithi Mugambi (Deceased) and not to Erick Mwenda Muriithi and an invitation to distribute his share in the estate to SNM and SK (Minor) is therefore untenable and it is declined.
7. However, and in order to safeguard the share for Erick Mwenda Muriithi (Deceased Beneficiary) and the interests of his children SNM and SK , it is hereby ordered as follows:
 1. Now that Erick Mwenda Muriithi is deceased, the Certificate of Confirmation of Grant issued on 20th August, 2013 shall be rectified to the extent that Erick Mwenda Muriithi's shares shall vest in his estate
 2. Pending the distribution of Erick Mwenda Muriithi's estate, all rents due and payable to his estate shall be deposited into an account to be opened not later than 14 days from today's date in the names of Shirlyn Nkatha Mwenda and the Deputy Registrar of this court
 3. Any withdrawals from the said account shall require the court's authorization
 4. Applicants are hereby directed to render a full account of all dealings in rental income collected on behalf of the estate of Erick Mwenda Muriithi within 30 days of today's date
 5. The Applicants who are the administrator of the estate are herein warned that this court will not hesitate to exercise its powers under Section 76 of the Law of Succession which includes revocation of the grant if they do not proceed diligently with the administration and transmission of the estate to the respective beneficiaries
 6. This cause shall be mentioned on 29th April, 2024 to confirm compliance with these orders and for further orders and/or directions

DATED AT MERU 25TH DAY OF JANUARY 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Applicants - Mr. Mwirigi for Mwirigi Kaburu & Co. Advocates

For Respondent - Ms. Nelima for J.Nelima Associates & Advocates

