



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Simon Ikandi Gitunga alias Simon M'ikandi alias Simon Gikandi (Deceased)
(Succession Cause 5 of 1995) [2024] KEHC 1683 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1683 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 5 OF 1995
TW CHERERE, J
FEBRUARY 22, 2024**

**IN THE MATTER OF THE ESTATE OF SIMON IKANDI GITUNGA
ALIAS SIMON M'IKANDI ALIAS SIMON GIKANDI (DECEASED)**

BETWEEN

DOMICIANO MBAYA IKANDI.....1ST ADMINISTRATOR/ RESPONDENT

JUSTINE KATHAMBI MAITIMA.....2ND ADMINISTRATOR/RESPONDENT

AND

PATRICK MUTETHIA.....3RD ADMINISTRATOR/APPLICANT

RULING

Introduction

1. Deceased died sometimes on 11th March, 1972. The Applicants and Respondent were appointed joint administrators of the estate on 21st November, 2018.
2. By a ruling dated 09th May, 2019, this court after hearing the parties found that two daughters of the deceased had renounced their right to inheritance and directed that the estate be distributed equally to the other beneficiaries.
3. A Certificate of Confirmation of Grant dated 09th May, 2019 distributed the estate to estate comprised in Nyaki/giaki/442 and LR. Nyaki/nkabune/493 equally equally to
 1. Henry M'Amathi M'Ikandi
 2. Justine Kathambi Maitima
 3. Domesiano Mbaya Ikandi
 4. Pascasious Mutua Ikandi
 5. Fedelis Ngaruni Ikandi



6. The family of Augustino Maitima (deceased) to be held by the administrators
7. The family of Alex Murugu (deceased) to be held by the administrators
4. Subsequently, Henry M'Amathi M'Ikandi died and the family of Alex Murugu renounced their share and a Rectified Certificate of Confirmation of Grant was issued accordingly on 30th March, 2023.
5. By summons dated 16th September, 2023, supported by an affidavit sworn by Patrick Mutethia (3rd Administrator/ Applicant) on even date, Applicant accuses the Respondents of failing to sign the transmission documents and threatening violence on anyone attempting to distribute the estate. He therefore seeks orders that:
 1. The Deputy Registrar of the court be authorized to execute the requisite documents for transmission of the estate of the Deceased in accordance with the Rectified Certificate of Confirmation of Grant dated 30th March, 2023.
 2. The Officer Commanding Giaki Police station be authorised to supervise the subdivision of LR Nyaki/giaki/44Meru County Land Surveyor in accordance with the Rectified Certificate of Confirmation of Grant dated 30th March, 2023.
6. The summons was served on the 1st and 2nd Administrators/Respondents' advocate Ms. John Muthomi & Co. Advocates but their neither filed any respondent nor attended the hearing. The summons is therefore unopposed.

Analysis and Determination

7. The provisions of Section 83 of the *Law of Succession Act* Cap concerning the duties of administrators was enunciated in *Re Estate of Wilfred Munene Ngumi (deceased)* [2020] eKLR where the court stated:

“Section 83(g) of the *Act* mandates administrators of an estate to, within six months of confirmation of grant or longer period as the court may allow, complete the administration of the estate, and to produce to the court a full and accurate account of the complete administration.

This undertaking cannot be done unless the necessary documents are executed by the parties...”.
8. By failing to sign the transmission documents and threatening violence on the surveyor, the 1st and 2nd Administrators/Respondents, I am satisfied that satisfied that the 1st and 2nd Administrators/ Respondents have acted contrary to the provisions of Section 83 (g) of the Act and this no doubt has prejudiced the beneficiaries who have a legitimate expectation to receive their share of the Deceased's estate as ordered by the court.
9. Unless the orders sought are issued, I am satisfied that the 3rd Administrator/Applicant and the other beneficiaries would be left babysitting on to a barren Rectified Certificate of Confirmation of Grant.
10. Accordingly, it is hereby ordered:
 1. The Deputy Registrar of the court be authorized to execute, on behalf of Domiciano Mbaya Ikandi and Justine Kathambi Maitima, the requisite documents for transmission of the estate of the Deceased in accordance with the Rectified Certificate of Confirmation of Grant dated 30th March, 2023.



2. The Officer Commanding Giaki Police station is hereby authorised to provide security to Meru County Land Surveyor during the subdivision of LR Nyaki/giaki/44 in accordance with the Rectified Certificate of Confirmation of Grant dated 30th March, 2023.
3. 1st and 2nd Administrators/Respondents will bear the costs of this application
4. Mention on 29th April, 2024 to confirm compliance with these orders and transmission of the estate

DELIVERED IN MERU THIS 22ND DAY OF FEBRUARY 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Applicants - Mr. Ringera for Gatari Ringera & Co. Advocates

For Respondents - Mr. Muthomi for John Muthomi & Co. Advocates

