



**In re Estate of Igweta Turuchiu (Deceased) (Succession Cause
415 of 2014) [2024] KEHC 3018 (KLR) (21 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3018 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 415 OF 2014
TW CHERERE, J
MARCH 21, 2024**

IN THE MATTER OF THE ESTATE OF IGWETA TURUCHIU (DECEASED)

BETWEEN

CHARLES MUGAMBI.....PETITIONER/APPLICANT

AND

MAGRET KARAMANA MANYARA.....1ST OBJECTOR

JOYCE KAGURI GIKUNDI.....2ND OBJECTOR

GLADYS KAMIRU.....3RD OBJECTOR

ELIZABETH NKIROTE.....4TH OBJECTOR

MARTHA KAIRUTHI.....5TH OBJECTOR

HARRIET KARURU.....6TH OBJECTOR

RULING

1. By a ruling dated, 27th July, 2023, this court made the following orders;
 1. Magret Karamana Manyara, Joyce Kaguri Gikundi, Gladys Kamiru, Elizabeth Nkirote, Martha Kairuthi and Harriet Karuru are beneficiaries of deceased's estate
 2. Letters of administration issued to the Respondent on 03rd November, 2014 are hereby revoked and Charles Mugambi and Magret Karamana Manyara are appointed joint administrators with an order that Letter of Administration issue to them forthwith
 3. The Certificate of Confirmation of Grant dated 23rd September, 2015 in which the estate was distributed solely to the Respondent is revoked and it is directed that LR. Nyaki/mulathankari/472 be reverted to the name of Igweta Turuchiu (Deceased)
 4. The administrators shall within 45 days of this order apply for confirmation of grant after identifying the respective shares of each beneficiary



5. The status quo that obtained prior to the purported distribution conducted by the Petitioner/ Respondent shall remain pending the distribution of the estate
 6. This cause shall be mentioned on 26th October, 2023 to confirm compliance with these orders and for further orders and/or directions
 7. Costs shall be paid by the Petitioner/ Respondent
2. By summons dated 27th February, 2024, Charles Mugambi (Petitioner/Applicant) seeks leave to appeal, the foregoing ruling and stay of further proceedings pending the hearing and determination of an intended appeal to the Court of Appeal.
 3. The summons is supported by Petitioner/Applicant's affidavit sworn on 27th February, 2024 in which he avers that he is aggrieved by the court's ruling and is likely to suffer substantial loss if Objectors are allowed to inherit what they are not entitled to.
 4. Counsel for the Objectors proposed to file a response to the summons but as at the time of writing this ruling, none had been filed.
 5. I have considered the summons and I note that under the provisions of the Law of Succession Act (cap.160), there is no specific provision for filing an appeal to the Court of Appeal from a succession cause heard and determined by the High Court. However, courts have held that an appeal to the Court of Appeal can be filed, subject to leave being granted by the High Court or the Court of Appeal. This position was reiterated by the Court of Appeal in the case of Rhoda Wairimu Karanja & Another – vs- Mary Wangui Karanja & Another (2014) eKLR when the court stated as follows –

“We think we have said enough to demonstrate that under the Law of Succession Act, there is no express automatic right to appeal to the Court of Appeal, that an appeal will lie to the Court of Appeal from the decision of the High Court exercising original jurisdiction with leave of the High Court or where the application for leave is refused, with leave of this court”
 6. Article 50 of the Constitution guarantees any person the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body and that includes an appeal from any decision as by law provided.
 7. From the foregoing, it is hereby ordered as follows:
 1. Petitioner/Applicant is granted leave to appeal this court's ruling dated 27th July, 2023
 2. In order to preserve the estate pending appeal it is ordered that upon distribution of deceased's estate comprised in LR. Nyaki/mulathankari/472, an order of inhibition shall be registered against each portion to restrict the parties from charging, selling, disposing off or in any adverse manner dealing with their respective portions pending the hearing and determination of the intended appeal and/or until any and or further orders of the court
 3. Costs shall be in the appeal

DATED AT MERU THIS 21ST DAY OF MARCH 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances



Court Assistants - Kinoti/Munene

For Objectors - N/A for Kiogora Mugambi & Co. Advocates

For Petitioner/Applicant - Mr. Muthomi for John Muthomi & Co. Advocates

