



**In re Estate of Isabella Eliza Farah Wood alias Isabella Wanjiru Wood (Deceased)
(Succession Cause 45 of 1990) [2024] KEHC 2911 (KLR) (19 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2911 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 45 OF 1990
SM MOHOCHI, J
MARCH 19, 2024**

**IN THE MATTER OF THE ESTATE OF ISABELLA ELIZA FARAH WOOD ALIAS
ISABELLA WANJIRU WOOD [DECEASED]**

BETWEEN

**KENNEDY MUHIA 1ST APPLICANT
THOMAS PHILLIP KIBUTHI 2ND APPLICANT
PAULINE WANGARI KAMAU 3RD APPLICANT**

AND

**PASCAL BABU WOOD 1ST RESPONDENT
GRACE ROSE NJAMBI WOOD 2ND RESPONDENT**

RULING

1. Before Court for determination is an Amended Originating Summons application dated 3rd October 2023 seeking:
 - i. Spent
 - ii. That pending the hearing and determination of this application the Court do hereby issue an order for the valuation of all that property known as Land Reference 464/13(L.R. No. 181981) and L.R. No. 10225 by an independent land valuer to ascertain the current market value of the said property.
 - iii. That the Court do hereby issue an order directing that pending the hearing and the determination of this Application all and any proceeds generated from the Estate of the deceased be deposited in a joint account in the name of the advocates on record for the purposes of accountability and transparency.



- iv. That the Court do hereby issue an order restraining the Respondents their employees, servants and/or agents or anyone acting on their instructions from interfering with the Estate of Philip Kamau Muhia and any and all proceeds due to the said Estate be directly channeled through their appointed advocates on record.
2. The Application was opposed by a Notice of Preliminary Objection dated 24th October 2023 raising a preliminary point of law against the entire application for the following reasons:
 - i. The Application is based on irrelevant and inapplicable provisions of law being Section 26, 47 and 94 of the Law of Succession Act.
 - ii. The Application is an abuse of the Court process as it offends the provisions of Section 82(b) of the Law of Succession Act.
 - iii. The Application is irregular and misconceived as it is based on Order 31 of the Civil Procedure Act and Rules, which Order is expressly excluded in succession matters by Rule 63 of the Probation and Administration Rules.
 3. The Respondents equally filed a Replying Affidavit sworn on 24th October 2023.
 4. This Court has considered the pleadings and oral submissions by the parties.
 5. With all the miles of text and bulky filings herein, I elect to be simple by saying that the Applicants are two grandchildren of the deceased and one daughter in-law of the deceased. Their time and posture fail to appreciate that this is a testate probate and administration cause, they fail to appreciate the place and role of an executor in a testate succession.
 6. The Applicants are advised to appreciate that the executors have unfettered authority to administer the estate with only in rare, exceptional and narrow parameters can their executors nominated by a will, be annulled by a Court.
 7. Succession Courts are hesitant being drawn into the realm of micro-managing estates of deceased persons.
 8. The Court finds merit in the Notice of Preliminary Objection
 9. All interlocutory injunctive orders issued herein are lifted.
 10. This Court invokes its inherent jurisdiction under Rule 73 of the Probation and Administration Rules to direct that the executors shall proceed to dispose of the two remaining assets in this estate.
 11. The executors are directed to proceed and distribute the remaining assets and settle this estate.
- It is so ordered.

SIGNED, DATED AND DELIVERED AT NAKURU ON THIS 19TH DAY OF MARCH 2024.

.....

MOHOCHI S. M.

JUDGE

