



In re Estate of M'imirongo M'uthaka (Deceased) (Succession Cause 308 of 2010) [2024] KEHC 6419 (KLR) (30 May 2024) (Ruling)

Neutral citation: [2024] KEHC 6419 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 308 OF 2010
TW CHERERE, J
MAY 30, 2024**

IN THE MATTER OF THE ESTATE OF M'IMIRONGO M'UTHAKA (DECEASED)

BETWEEN

SUSAN NKATHA APPLICANT

AND

ANDREW MURIUKI M'UTHAKA 1ST RESPONDENT

PATRICK KAMENCHU 2ND RESPONDENT

RULING

1. The estate in this cause was distributed vide Certificate of Confirmation of Grant dated 14th February, 2014.
2. To date, the estate remains undistributed. Susan Nkatha (3rd Administrator/Applicant) by notice of motion dated 28th March, 2024 supported by her affidavit of even date attributes the delay in the distribution of the estate to Andrew Muriuki M'uthaka and Patrick Kamenchu (2nd and 3rd Administrators/Respondents) whom she accuses of declining to sign the transmission documents.
3. 3rd Administrator/Applicant therefore prays that the executive officer of this court be authorized to sign the transmission documents on behalf of the 2nd and 3rd Administrators/Respondents.
4. The application was served on the advocate for the 2nd and 3rd Administrators/Respondents on 14th April, 2024 by the time of writing this ruling, no response had been filed.
5. I have considered the notice of motion in the light of the supporting affidavit. By declining to sign the transmission documents, 2nd and 3rd Administrators/Respondents have breached Section 76 (d) (ii) of the *Law of Succession Act*. Additionally, their actions are prejudicial to the other beneficiaries who have a legitimate expectation to receive their rightful shares of deceased's estate in this matter that has been pending for the last 14 years.



6. In the end, the notice of motion dated 28th March, 2024 is determined in the following terms:

1. In the event that Andrew Muriuki M'Uthaka and Patrick Kamenchu and John Mutuma Robert (1st and 2nd Administrators) decline to sign the transmission forms within 7 days of their presentation to them or their advocates, this court hereby authorizes and empowers the Deputy Registrar of this court to sign all the necessary transmission documents on their behalf to ensure that the estate of deceased is transmitted without further delay
2. I notice that John Mutuma Robert (3rd Administrator) has not been made party to this application but for abundance of caution, orders herein shall also apply against him in equal measure in the event that he too declines to sign the transmission documents
3. Each party shall bear its own costs
4. Mention 17th October, 2024 to confirm transmission

DELIVERED IN MERU THIS 30TH DAY OF MAY 2024

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For 4th Administrator/Applicant - Ms. Mbumbuya for B.G.Kariuki & Co. Advocates

For 1st, 2nd & 3rd Administrators/Respondents - N/A for Kobia Michubu & Co. Advocates

