



In re Estate of Tuarachiu Marete alias M'turuchiu M'marete alias Turuchu s/o Marete (Deceased) (Succession Cause 82 of 1989) [2024] KEHC 6468 (KLR) (30 May 2024) (Ruling)

Neutral citation: [2024] KEHC 6468 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 82 OF 1989**

TW CHERERE, J

MAY 30, 2024

**IN THE MATTER OF THE ESTATE OF TUARACHIU MARETE ALIAS
M'TURUCHIU M'MARETE ALIAS TURUCHU S/O MARETE (DECEASED)**

BETWEEN

FREDRICK KABURU IKIUGU 1ST ADMINISTRATOR

JOHN KIBITI M'TURUCHIU 2ND ADMINISTRATOR

AND

JANE NAITORE M'TUARUCHIU OBJECTOR

RULING

1. The estate in this cause was distributed *vide* Certificate of Confirmation of Grant dated 30th July, 2008 which was subsequently rectified on 08th October, 2014
2. To date, the estate remains undistributed. Fredrick Kaburu Ikiugu (1st Administrator/Applicant) by notice of motion dated 08th April, 2024 supported by his affidavit of even date attributes the delay in the distribution of the estate to John Kibiti M'Turuchiu (2nd Administrator/Respondent) whom he accuses of declining to sign the transmission documents.
3. 1st Administrator/Applicant therefore prays that the deputy registrar of this court be authorized to sign the transmission documents on behalf of the 2nd Administrator/Respondent and for an order that the OCS Githongo provides security to the surveyor during subdivision of the estate.
4. The application was served on the 2nd Administrator/Respondent's advocate on 09th April, 2024 and 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 Administrator/Respondent has breached Section 76(d)(ii) of the [Law of Succession Act](#). Additionally, his actions are prejudicial to the other beneficiaries who have a legitimate



expectation to receive the rightful shares of deceased's estate in this matter that has been pending for the last 35 years.

6. In the end, the notice of motion dated 08th April, 2024 is determined in the following terms:
 1. In the event that John Kibiti M'Turuchiu (2nd Administrator/Respondent) declines to sign the transmission forms within 7 days of their presentation to him, this court hereby authorizes and empowers the Deputy Registrar of this court to sign all the necessary transmission documents on his behalf to ensure that the estate of deceased is transmitted without further delay
 2. To ensure that the subdivision proceeds without interruption from any party, the OCS Githongo Police Station is directed to provide security on the date scheduled for subdivision of deceased's estate
 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 1st Administrator/Applicant - Ms. Oteko for Mbaabu M'Inoti & Co. Advocates

For 2nd Administrator/Respondent - N/A

For Objector - N/A for Kaumbi & Co. Advocates

