



REPUBLIC OF KENYA



**In re Estate of George Thuo Njuguna (Deceased) (Succession Cause  
825 of 2011) [2024] KEHC 6078 (KLR) (Family) (27 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6078 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**SUCCESSION CAUSE 825 OF 2011**

**MA ODERO, J**

**MAY 27, 2024**

**ESTATE OF GEORGE THUO NJUGUNA (DECEASED)**

**RULING**

1. This succession cause relates to the estate of the late George Thuo Njuguna (hereinafter ‘the Deceased’) who died on 15<sup>th</sup> June, 2010 leaving behind several beneficiaries and a vast estate.
2. Following the demise of the Deceased, Agrippina Wangari Thuo (widow) and George Thuo Njuguna (grandson) applied for Grant of Probate with written will. They relied on the written will dated 3<sup>rd</sup> June, 1996 purportedly left behind by the Deceased in which they were named as Executors.
3. The objectors who also claim to be beneficiaries of the estate filed an objection to the Petition for Grant of Probate. The objector’s position is that the Deceased did not leave behind any written will and died intestate. The Petitioners Agrippina Wangari Thuo and George Thuo Njuguna were also charged in Thika Criminal Case No. 4948 of 2016 with forging the will. Vide a Ruling delivered on 7<sup>th</sup> March, 2018 the two were acquitted under Section 210 [Criminal Procedure Code](#).
4. An appeal filed by the state against that acquittal was dismissed by Hon. Justice Majanja in a Judgment delivered on 8<sup>th</sup> January, 2020.
5. The matter was then referred for Court Annexed Mediation and parties reached an interim consent dated 20<sup>th</sup> March, 2019. As per the terms of that consent the beneficiaries of the estate were agreed upon and it was further agreed that George Thuo, Mathew Mwaura Thuo, Samuel Wanyoike Thuo and Diana Mukuhi Kahuthwa, would be appointed as the ‘interim administrators’ of the estate.
6. After mediation the parties were unable to agree on how the estate was to be distributed. The Applicant’s position is that since there exists a valid written will the estate ought to be distributed in accordance with that written will.
7. On the other hand the Respondent insist that the Deceased died intestate and therefore the estate ought to be distributed equally amongst all the beneficiaries.



8. When the matter came up before this court for hearing it transpired that one of the Administrators relying on the Interim Mediation Agreement had filed a Summons for confirmation of Grant.
9. However counsel for the Petitioners argued that the Summons for confirmation of Grant was premature and was a non-starter as in fact no Grant had ever been issued in this cause. It is now upon the court to issue directions on the way forward.
10. I have carefully perused this file. I note that no Grant of letters of Administration has been made by the courts to any party. I therefore concur that without issuance of such a Grant, the summons for confirmation of Grant would have no legs to stand on.
11. I have perused the Interim Consent dated 20<sup>th</sup> March, 2019 which provided as follows:-

“Following upon the mediation before the court appointed mediator Hon/Mr. Kinyori on 18<sup>th</sup> March, 2019 parties have hereby agreed to an interim consent as follows:-

- “ 1. That the beneficiaries of the estate of the deceased are as follows:-
  - a. Agrippine Wangari (widow)
  - b. Ruth Njeri Mbugua (Widow)
  - c. Francis Njuguna Thuo (Son)
  - d. Mary Nyokabi Thuo (Daughter)
  - e. Raphael Kahuthia Thuo (Son – deceased)
  - f. Mathew Mwaura Thuo (Son)
  - g. Nickdemus Gatoho Thuo (Son)
  - h. Jane Wambui Thuo (Daughter)
  - i. Paul Mbugua Thuo (Son)
  - j. Samuel Wanyoike Thuo (Son)
2. There shall be an interim Board of Administrators drawn from all the interested parties made up of the following:-
  - a. George Thuo Njuguna
  - b. Mathew Mwaura Thuo
  - c. Samuel Wanyoike Thuo
  - d. Diana Mukuhi Kabutha
3. The Interim Board of Administrators shall appoint an auditor to establish the status of the estate and to tabulate the assets and liabilities of the estate.
4. There shall be a mediation session on 25<sup>th</sup> March 2019 at 2.30pm to confirm compliance and to forge the way forward.  
  
Signed by all the beneficiaries and their respective advocates [Own emphasis]



12. That consent only set out the identities of the beneficiaries to the estate and named an ‘Interim Board of Administrators’ whose function was limited to appointing an Auditor to establishing the status of the estate and to tabulate the assets and liabilities of the estate. The said Interim Board of Administrators were not under the terms of the consent authorized to apply for and/or obtain Grant of representation for the estate and to move forward with distribution.
13. An attempt by certain parties to have that interim consent set aside was dismissed by Hon. Justice Muchelule (as he then was) in his ruling delivered on 19<sup>th</sup> February, 2020.
14. Therefore the starting point in this matter is to determine whether the written will dated 3<sup>rd</sup> June, 1996 is valid or not. Only then will the court be able to make a determination as to whether the Deceased died Intestate or testate. Thereafter that Executors or Administrators may be appointed for the estate after which a Grant of representation will issue.
15. Once the Grant is issued then the parties will be required to agree on the mode of distribution of the estate. If the Deceased is found to have died testate then the will shall dictate the mode of distribution after which the summons for confirmation of Grant will be filed.
16. It is so ordered.

**DATED IN NYERI THIS 27<sup>TH</sup> DAY OF MAY, 2024.**

.....

**MAUREEN A. ODERO**

**JUDGE**

