

KENYA / JUDGMENT

In re Estate of Wambugu (Deceased)

[2026] KEHC 12596 (KLR)

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COURT

High Court

BEFORE

DKN Magare

CASE / FILE NUMBER

Succession Cause 934 of 2012

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REPUBLIC OF KENYA

IN THE HIGH COURT AT NYERI

SUCCESSION CAUSE NO. 934 OF 2012

IN THE MATTER OF THE ESTATE OF KAGURE WAMBUGU (DECEASED)

GLADYS WANJIKU WAMBUGU PETITIONER

RULING

1. The deceased herein, Kagure Wambugu, died on 12.06.1998 at a ripe old age of 77 years. The matter herein was filed on 07.07.2010 as Othaya RMC Succession Cause Number 51 of 2010 by Oscar Kingettah Maina. He described himself as a grandson and declared that only land parcel number Mahiga Kihome/92 was left behind by the deceased. He claimed that the deceased died on 26.10.2010 at the age of 98 years. The grant was confirmed on 20.12.2012. The file was transferred to this court as Succession Cause Number 934 of 2012.
2. Gladys Wanjiku Wambugu sought to revoke the grant as it was fraudulently filed. A new grant was issued on 7.02.2019 to Gladys Wanjiku Wambugu, Paul Ngatia Mathai and Margaret Wangari. Subsequently, Gladys Wanjiku Wambugu sought to confirm the grant vide summons for confirmation of grant dated 15.04.2019, with all properties going to her. The properties were:
 1. Land Parcel Number Mahiga Kihome/92 measuring 1.25 hectares.
 2. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)66 - measuring 2.146 hectares
 3. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)125 - 3.741 hectares

3. A protest was filed in relation to two of the parcels, that is, Land Parcel Number Mahiga Kihome/92 and Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)125.
4. In respect of Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)66 and Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)5, there was no protest. This court, Muya J, dismissed the protest as unmeritorious after hearing the parties **viva voce**. There was no appeal in respect of the decision.
5. After the dismissal of the protest, the summons for confirmation remained unopposed. Rule 41 of the Probate and Administration Rules provides as follows;

where the court in exercise of its power under[section 71(2)(a)](<https://new.kenyalaw.org/akn/ke/act/ln/1980/104/eng%402022-12-31#section%2071>)of the Act directs that a grant be confirmed it shall cause a certificate of such confirmation in Form 54 to be affixed to the grant together with the seal of the court and shall appoint a date not more than six months ahead, by which time the accounts of the completed administration shall be produced to the court for its approval.

1. Section 71 of the Law of Succession Act provides as follows:

After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.

Subject to subsection (2A), the court to which application is made, or to which any dispute in respect thereof is referred, may

if it is satisfied that the grant was rightly made to the applicant, and that he is administering, and will administer, the estate according to law, confirm the grant; or

if it is not so satisfied, issue to some other person or persons, in accordance with the provisions of sections 56 to 66 inclusive, a confirmed grant of letters of administration in respect of the estate, or so much thereof as may be unadministered; or

order the applicant to deliver or transfer to the holder of a confirmed grant from any other court all assets of the estate then in his hands or under his control; or

postpone confirmation of the grant for such period or periods, pending issue of further citations or otherwise, as may seem necessary in all the circumstances of the case: Provided that, in cases of intestacy, the grant of letters of administration shall not be confirmed until the court is satisfied as to the respective identities and shares of all persons beneficially entitled; and when confirmed the grant shall specify all such persons and their respective shares.

1. The applicant succeeded in the protest. The court therefore has no other option but to order the matter to be confirmed. In the case of [**In re Estate of Makanya Kubutha (Deceased)** [2025] KEHC 13646 (KLR)](<https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/13646/eng%402025-10-01>), R. Mwongo J, posited as follows:

After determining that issue, the trial court found clarity as to what should constitute the net estate of the deceased and how to distribute it. The gift inter vivos was considered and taken into account, then the court found it favourable to distribute according to the mode proposed in the summons for confirmation. Once a court has determined a protest and there is no other pending issue, it is only in the interest of justice that the summons for confirmation be determined immediately.

25. The lower Court's decision is what is appealed against herein. As already stated, there was no evidence by the appellants that property number Mbeere/Mbita/1302 was purchased, by their mother, as alleged. Further, there was evidence that the deceased gave the said land inter vivos to the appellants' mother.

1. In the circumstances, the grant is confirmed as follows:
 1. Land Parcel Number Mahiga Kihome/92 - Gladys Wanjiku Wambugu absolutely.
 2. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)66 - Gladys Wanjiku Wambugu absolutely.
 3. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)125 - Gladys Wanjiku Wambugu absolutely.
2. Though Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)125 is listed, there is no evidence that it belongs to the deceased. It is excluded until a search is filed to confirm the correct possession.

Determination

1. In the circumstances, I make the following orders:
 1. The grant issued is hereby revoked since the co-administrators are unnecessary parties.
 2. A grant is issued in the name of Gladys Wanjiku Wambugu.
 3. The same is confirmed as follows:
 - * 1. Land Parcel Number Mahiga Kihome/92 - Gladys Wanjiku Wambugu absolutely.
 2. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)66 - Gladys Wanjiku Wambugu absolutely.
 3. Land Parcel Number Laikipia/Marmanet/Siron Block1(Subuku)125 - Gladys Wanjiku Wambugu absolutely.
 4. The grant be transmitted by 27.1.2027, and be mentioned on 10.02.2027 before the Deputy Registrar, to confirm transmission.

DELIVERED, DATED and SIGNED at NYERI on this 30th day of July the year of our Lord Two Thousand and Twenty-six. Ruling delivered through Microsoft Teams Online Platform.

KIZITO MAGARE

JUDGE

In the presence of;

Mr. Ombongi for the Applicant

Court Assistant – Timothy

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Prepared on 29 October 2026 · Esheria