

Case Note

CASE NOTES & COMMENTARY
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

📅 [2026] KEHC 4183

A DNA test for a minor is refused as disproportionate in a succession dispute

In re Estate of Samuel Kamau Nganga (Deceased)

DNA APPLICATION DISMISSED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

In a succession matter, administrators sought a DNA test on a minor to establish paternity, pointing out the child's birth certificate had been issued eleven years after the alleged father's death. The widow opposed the test as an infringement of the minor's privacy. The Court agreed the DNA test was neither necessary nor proportionate: the operative legal question was whether the deceased son's own estate was entitled to a share of his father's estate — not whether the minor personally qualified as a beneficiary — and genetic data is sensitive personal data that compelled testing implicates both privacy and bodily integrity.

PRACTICE POINT

Courts will not order DNA testing, which necessarily generates sensitive genetic data, where the legal question in dispute can be resolved without it. Frame succession or paternity disputes around the narrowest legal question actually in issue before reaching for genetic evidence.

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HOW THIS TOUCHES A LIVE ODPC MATTER

Whether you are defending a complaint, appealing a determination, or bringing a privacy claim of your own, the forum you choose and the procedural record you build early usually decide the outcome.

Muchangi Patrick & Co. Advocates represents complainants and respondents before the Office of the Data Protection Commissioner and on appeal, judicial review and constitutional petition before the High Court.

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