



**In re Estate of James Kanja Njoroge alias James K Njoroge alias Kanja Njoroge (Deceased)  
(Succession Cause 1569 of 2018) [2024] KEHC 11822 (KLR) (Family) (26 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 11822 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 1569 OF 2018  
PM NYAUNDI, J  
JULY 26, 2024**

**IN THE MATTER OF THE ESTATE OF JAMES KANJA NJOROGE  
ALIAS JAMES K. NJOROGE ALIAS KANJA NJOROGE (DECEASED)**

**BETWEEN**

**AGNES NYAMBURA MWANGI ..... OBJECTOR**

**AND**

**LUCY WAMAITHA ..... 1<sup>ST</sup> RESPONDENT**

**MARGARET NJOKI KANJA ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. James Kanja Njoroge alias James K. Njoroge alias Kanja Njoroge (the Deceased) died on 29<sup>th</sup> March 2017. The Petitioners herein applied for Grant of Letters of Administration Intestate and Grant was issued to them on 29<sup>th</sup> October 2019. The Petitioners identified the beneficiaries of the deceased to be:
  - a. Eunice Wanjiku Kanja- daughter.
  - b. Daniel Njoroge Kanja-son.
  - c. Mary Wangare Kanja- daughter.
  - d. Peninah Wanjiru Kanja- daughter.
  - e. Selwyne Mark Kanja Mwangi- grandson.
  - f. Margaret Njoki Kanja- daughter.
2. The assets of the deceased were enumerated to include-



- a. LR Dagoretti/Riruta/782 (0.3804 ha).
  - b. LR Eldoret Municipality/block 15 (West Farmers) 1357 (0.0996 ha).
  - c. LR Solai/Ndugiri Block 3/1729 (wanyoro 'B') (0.1053 ha).
  - d. Chania/Makwa/1451 (0.07 ha)
  - e. Loitoktok/Olkaria/1258 (0.405 ha).
  - f. Loitoktok/Entarara/741(0.81 ha).
  - g. LR Laikipia/Sosian Block 2/5994 Narok Ranch (0.8100 ha).
  - h. One Share Plot No. 1092 Juja Kalimoni.
  - i. 125 Shared in Langata Development Company.
  - j. One Share Kikuyu Sisal Estate Association.
  - k. 25 Shares in Guinyira Community Based Association.
  - l. Kenya Commercial Bank 1328 Shares.
  - m. Plot No. 1097 in Renguti Resources-youth Centre and Stecarda Enterprises.
  - n. 1000 Shares in Cooperative Bank of Kenya.
3. Agnes Nyambura Mwangi (the objector/applicant) herein, filed summons for revocation or annulment of grant dated 22<sup>nd</sup> September 2020 seeking the following orders;
    1. That the grant of letters of administration intestate made to Lucy Wamaitha and Margaret Njoki Kanja in this matter on 29<sup>th</sup> October 2019 be revoked and or annulled.
    2. That the costs of this application be borne by the Respondents.
  4. The Summons is presented pursuant to Section 76 of the Law of Succession Act, Cap 160 Laws of Kenya and Rule 44 of the Probate and Administration Rules and is supported by the Applicant's sworn affidavit of even date. It emerged at the hearing that the Objector had also initiated a succession cause in Oloitoktok in respect of the estate of the deceased vide Senior Resident Magistrate's Cause No. 46 of 2018. She withdrew the same on learning that the Administrators herein had already obtained a Grant of Letters of Administration Intestate in this cause.
  5. The matter proceeded to hearing by way of Viva Voce evidence. The Applicant called a total of 7 witnesses; herself, Peter Njoroge Gathina, Mwaura Muchini, John Ngugi Njoroge, Kabera Muniu and Hezekiah Kiruka Mwangi and Martin Papa a document examiner.
  6. The sum of the evidence of the Objector is that she and the Deceased formalized their marriage under Kikuyu Customary law, that the cultural rites of ruracio and ngurario (posthumously) were performed to solemnize the marriage. In support of her claim that she and the deceased were married, she has produced Statutory declaration said to be sworn jointly by her and the deceased on 13<sup>th</sup> October 1995. She also availed letter dated 21<sup>st</sup> August 2020 signed by Johnson Kulale, Senior Chief Entara Location enumerating the beneficiaries of the deceased. The letter identified her as a wife of the deceased and her children alongside the 1<sup>st</sup> Administrator and her Children. There is also the letter lodged by the Administrators in support of the Petition that identifies her as a spouse and her children as beneficiaries



- of the estate. She also availed photographs of herself with the deceased and with the children of the 1<sup>st</sup> Administrator.
7. The witnesses in support of the Objector's case, confirmed that they recognized the deceased as husband and wife, the two established a home at Oloitoktok and that they either attended or were aware of the cultural rites that the deceased undertook to formalize his marriage with the Objector, including the ruracio and the ngurario visits. Mwaura Machini is a brother to the deceased he recognizes both the Objector and the 1<sup>st</sup> Administrator as the wives of the deceased. He did not attend either the ruracio or the ngurario. He did not attend the burial of the deceased
  8. John Ngugi Njoroge, he is a younger brother to the deceased. He recognizes both the Objector and the 1<sup>st</sup> Administrator as the wives of the deceased. He did not attend the formalization ceremonies that is the ruracio and ngurario. He was of the view that Ngurario cannot be performed after the death of the deceased.
  9. Kabera Muniu, he resides in Oloitoktok, he is the chairman of the Kikuyu Council of Elders in Oloitoktok. He was present when the deceased paid dowry for the Objector at her parent's home at California Estate in Nairobi. He knew the deceased had 2 wives. He attended the burial of the deceased. Peter Njoroge Gathina, he is a resident of Oloitoktok. He knew the deceased and the Petitioner as husband and wife. He attended the ruracio ceremony at Eastleigh. He also recognizes the 1<sup>st</sup> Administrator as the wife of the deceased.
  10. Martin Esakina Papa, Document examiner. His evidence was that the signature on the statutory declaration is that of the deceased.
  11. The Administrator called a total of 4 witnesses; herself, Joseph Mwaura Kinya, Peter Wachieni Muraguru and Emmanuel Karisa Kenda. It was her evidence that she married the deceased in accordance with Kikuyu Customary law and later formalized the marriage at PCEA Satellite Church Nairobi on 21<sup>st</sup> December 1997. As evidence of her marriage she availed copy of her marriage certificate.
  12. Joseph Mwaura Kinya testified that the only wife of the deceased is the 1<sup>st</sup> Administrator, that he was present when the expressed his wishes on the distribution of his land as per note dated 22<sup>nd</sup> December 1996 allegedly signed by the deceased.
  13. Peter Wachieni Muraguru is a member of the church at which the two celebrated their marriage. There was no objection to the marriage. Emmanuel Karisa Kenda, he testified as a document examiner, it was his evidence that the signature on the statutory declaration was not under the hand of the deceased.
  14. At the end of the hearing parties filed their respective submissions. The Objector filed written submissions dated 21<sup>st</sup> May 2024 whilst the Respondents submissions are also dated 21<sup>st</sup> May 2024.

### **Summary of Objector's Submissions**

15. The Objector identifies 4 issues for determination-
  - a. Whether the Objector Agnes Nyambura Mwangi was a widow of the deceased
  - b. Whether there has been long cohabitation and presumption of marriage between the objector and the Deceased?
  - c. Whether the Petitioners obtained Grant of letters of Administration intestate by making false statements and concealment from the Court that the Objector who is a widow of the Deceased and her children were excluded from benefiting from the Deceased's Estate?



- d. Whether the Objector is entitled to the reliefs sought?
16. The Objector submits that she had a valid marriage with the deceased formalized in accordance with the tenets of Kikuyu customary law and she is therefore a widow of the deceased. She relies on the decision in *Kimani Gituanja vs Jane Njoki Gituanja (1983) KLR*; *David Kinyua Njiiri vs Peris Wanja Kinyua (1995) eKLR*; *Re Estate of Muhoho Kinyanjui Muhoho (Deceased)*. The Objector submits that the deceased visited her parents for ruracio, they cohabited for a long period as man and wife, had three daughters, purchased property together, swore a joint affidavit of marriage and performed the cultural rite of ngurario posthumously to formalize the marriage.
17. On the conflicting testimony by the experts it is the Objector's submission that considering the totality of the evidence, the court should find that the document is genuine and that the deceased and the objector were married.
18. In the alternative the Objector urges that the court should presume a marriage on account of the long cohabitation between her and the deceased. She relies on the Supreme Court decision in *Mary Nyambura Kangara alias Mary Nyambura vs Paul Ogari Mokaya Petition No. 9 of 2021*; *Estate of Eliud Kiarie Mutembei (Deceased) [2022] eKLR* and *Estate of Christopher Godfrey Onzele Indure (Deceased) [2021] eKLR*. It is categorically denied that the Objector was an employee of the deceased as alleged. The Objector submits that Section 3(5) of the *Law of Succession Act* provides an exception to Section 37 of the *Marriage Act* and that therefore the Court should find she has a valid marriage for the purposes of Succession and relies on the decision in *Estate of Isaac Gidraph Njuguna Mukuroro (Deceased)[2013] eKLR* and *Margaret Doreen Atieno Adongo vs Benjamin Adongo Adeya & Others [2006] eKLR*
19. In view of the forgoing it is submitted that the Grant issued to the Respondents ought to be revoked pursuant to the provisions of Section 76 of the *Law of Succession Act* and a fresh grant issue to her.

### **Summary of Respondent's Submissions**

20. The issues as identified by the Respondent are-
- a. Whether the Objector/ Protestor was married to the deceased
  - b. Whether the Objector / Protestors claim warrants revocation or annulment of the grant of the letters of administration dated 29<sup>th</sup> October 2019
  - c. Whether the Application for confirmation of grant dated 20<sup>th</sup> July 2020 should be allowed
  - d. Who should bear costs of the Suit
21. It is submitted that no marriage has been proved as required by law and judicial precedent. Reference is made to the decisions in *Mary Wanjiru Githatu v Esther Wanjiru Kiarie Civil Appeal No. 20 of 2009 (Court of Appeal at Eldoret)*; *In the Matter of the Estate of Karanja Kigo [2015] eKLR* and *Priscilla Waruguru Gathigo Vs. Virginia Kanugu Gathigo [2004] eKLR* on the prerequisites of a customary marriage in Kikuyu. It is their contention that Ngurario is an essential element of a valid marriage under Kikuyu Customary law. It is submitted that the deceased did not have capacity to marry the objector as he was in a monogamous marriage with the Respondent.
22. It is further submitted no evidence was adduced to support the allegation that the deceased had 3 children with the Objector. In any event it is submitted that the deceased expressed himself in a note on how his estate should be distributed. It is submitted that the Objector having failed to prove a marriage cannot rely on her cohabitation with the deceased to be presumed a marriage.



23. For the foregoing reasons, it is submitted that the Objector has not laid the basis for revocation of the grant and reference is made to the decision in *Re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] eKLR and *In the Matter of the Estate of L.A.K.( Deceased)* 2014 eKLR.
24. The Administrators submit that the Objector having failed in their application the Court should confirm that Grant as per the summons for confirmations of grant dated 20<sup>th</sup> July 2020.
25. Finally, it is submitted that the Objector should meet the costs of the Application.

### **Analysis and Determination**

26. I discern the following as the issues for determination
  - a. Whether the grant issued on 29<sup>th</sup> October 2019 should be revoked?
  - b. If the answer to (a) is in the negative, whether the Grant issued on 29<sup>th</sup> October 2019 should be confirmed and Estate distributed as proposed in summons dated 20<sup>th</sup> July 2020
27. On the 1<sup>st</sup> issue it is submitted that the Grant should be revoked as it was obtained by concealment of material facts and by making of false statements. Specifically, it is argued that the Administrators failed to disclose that the Objector and her children were also beneficiaries to the estate and further failed to include all the assets of the deceased. It is submitted that the Administrator was aware of the marriage between the deceased and the Objector.
28. Section 76 of the *Law of Succession Act* gives the court the powers to revoke a grant provided the conditions stipulated therein have been met. It states that:

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion: -

  - a) That the proceedings to obtain the grant were defective in substance;
  - b) That the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
  - c) That the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
  - d) That the person to whom the grant was made has failed, after due notice and without reasonable cause either: -
    - i. To apply for confirmation of the grant within one year from the date thereof, or such longer period as the court has ordered or allowed; or
    - ii. To proceed diligently with the administration of the estate; or
    - iii. To produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
    - iv. The grant has become useless and inoperative through subsequent circumstances.



29. The circumstances in which a grant can be revoked were discussed in the case of *In the Matter of the Estate of L.A.K. (Deceased)* [2014] eKLR :-

“Revocation of grants is governed by Section 76 of the *Law of Succession Act*. The relevant portions of Section 76 are paragraphs (a), (b) and (c) since the issues raised relate to the process of the making of a grant. A grant may be revoked where the proceedings leading up to its making were defective, or were attended by fraud and concealment of important matter, or was obtained by an untrue allegation of a fact essential to the point.”

30. Notably, the power to revoke or uphold a grant is a discretionary one. This principle was enunciated in the persuasive decision in *Albert Imbuga Kisigwa vs Recho Kawai Kisigwa Succession Cause No. 158 of 2000* where Mwita J stated:-

“Power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrong doing for the court to invoke section 76 and order to revoke or annul a grant. and when a court is called upon to exercise this discretion, it must take into account interests of all beneficiaries entitled to the deceased’s estate and ensure that the action taken will be for the interest of justice.”

31. The summons is presented specifically under Sections 76 (b) and (c). The gravamen of the Summons for revocation is that the Objector is a wife to the deceased having formalized her marriage under Kikuyu customary law and that the union was blessed with 3 surviving children. She also contends that she cohabited so for so long with the deceased so as to give rise to a presumption of marriage.

32. The Objector presents the statutory declaration signed in 1995 as evidence of the marriage between her and the deceased. The authenticity of this document was challenged the administrators. Both parties called an expert witness in this regard. It was common ground that the document that was submitted for signature verification to the expert was a copy, notwithstanding that preferable approach is to have the original document submitted for scrutiny.

33. The Objector confirmed that she had the original document and did not offer an explanation why she did not present it at least to her expert witness. A reading of several articles relating to handwriting analysis disclose that original documents are preferred in carrying out analysis of handwritings. Handwriting experts also need several documents with the known signature of the deceased in order to reach an opinion on the signature on a questioned document. Both the expert witness correctly stated that no person can generate two similar signatures.

34. Considering that few documents were available to the experts, it is difficult to entirely rely on their reports. In light of the conflicting reports by the two experts, this court must therefore assess the evidence and form its opinion as to whether the questioned statutory declaration was indeed signed by the Deceased. In *Kenya Ports Authority v Modern Holdings [E.A.] Limited* [2017] eKLR; *Civil Appeal No. 108 of 2016* (Mombasa) the Court of Appeal held that:

“We agree with the learned Judge that in the event of conflicting expert evidence, it is the duty of the court to consider the evidence and form its opinion. However, in so doing, the court must give cogent reasons why it prefers the evidence of one expert over the other.”

35. As stated the Objector has not explained satisfactorily why she failed to avail the original document for verification. She took a risk in doing so and her gamble has paid not off. I have considered the reports



and evidence of both the experts and I find that of Emmanuel Kenga more credible as he points out and it is evident that there are alterations on the document. I have also had opportunity to scrutinize the signature in question and observed the discrepancies as pointed out by him.

36. From the evidence adduced, the appropriate order in this matter is a declaration that the signature on the statutory declaration is not by the hand of the Deceased. I also observe that the affidavit is not commissioned but is verified by an assistant chief on a date other than that which the parties are said to have signed it.
37. In addition, In re Estate of Daniel Olal Nyawawa (Deceased) [2019] eKLR, it was held that an affidavit of marriage is not of itself sufficient proof that the prerequisites of a customary law marriage have been met, the court stated-

In my view, the affidavit of marriage purportedly sworn jointly with the deceased is neither one of the conditions for a customary Luo marriage or one by presumption to be validated. An affidavit is just an affidavit on the averments and contents disposed by the deponents. Why do I say so? The legal system of marriages is incorporated under the Marriage Act 2014.

38. The applicant also relies on letter from the Chief as proof of her marriage to the deceased. In ASA v NA & another [2020] eKLR, the Court observed;

As regards the chief's letter, it is of little evidentiary value towards proving payment of dowry. It attests to an event the chief did not witness. as described in the foregone paragraphs. It is hearsay evidence which cannot be relied upon by this court.

39. The photographs also will not be of assistance to the Objector in establishing that there was a marriage, this was so held in the cases of ASA V NA & Anor and In re Estate of Daniel Olal Nyawawa cited above.
40. The upshot of the above is that in order for the Objector to succeed, she has to demonstrate that her union with the deceased fulfilled the requirements of kikuyu customary law or that the long cohabitation supports a presumption of marriage.
41. The onus of proving a customary marriage rests on the party claiming it. In the case of Njoki vs Mathara and Others Civil Appeal No. 71 of 1989 (UR), Kneller J. A pronounced as follows: -

- “a) The onus of proving a customary marriage is on the party who claims it.
- b) The standard of proof is the usual one for civil action, balance of probabilities.
- c) Evidence as to the formalities required for a customary law marriage must be proved to the above standard.”

42. Further in the case of Hortensiah Wanjiku Yawe vs The Public Trustee, Civil Appeal No. 13 of 1976, the court held: -

“The onus of proving customary law marriage is generally on the party who claims it. The standard of proof is the one usually for a civil action namely “on the balance of probabilities.” Evidence as to the formalities required for a customary law marriage must be proved to that standard. Long cohabitation as a man and wife gives rise to a presumption of marriage in favour of the party asserting it. Only cogent evidence to the contrary can rebut the presumption. If specific ceremonies and rituals are not fully accomplished this does not invalidate such a marriage”.



43. In *Mary Wanjiru Githatu vs Esther Wanjiru Kiarie* (Court of Appeal at Eldoret in Civil Appeal No. 20 of 2009) the court stated:

“It is important to observe that customary law marriages have some important ingredients without which they cannot possibly qualify as such. The ingredients are essentials in the making of a customary law marriage. A customary law marriage is a covenant of marriage sealed by the necessary customary ingredients and for the Kikuyu these ingredients are well known and documented. If the courts were to fail to take this into account, they would be giving recognition to the ‘come we stay’ marriages which are neither customary nor statutory”

44. The Court of Appeal in *Gituanja vs Gituanja* (1983) KLR 575 and in *Kimani vs Gikanga* [1965] EA 735 held that the existence of a customary marriage is a matter of fact, to be proved through evidence.

45. Section 107 of the *Evidence Act* provides that: -

“(1) whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove those facts exist.”

46. The cases of *In the Matter of the Estate of Karanja Kigo* [2015] eKLR and *Priscilla Waruguru Gathigo vs Virginia Kanugu Gathigo* [2004] eKLR mention at least five elements:

- (a) Capacity which includes age, physical and mental conditions and marital status;
- (b) Consents of the family of the couple and, if the intended bride is a second or subsequent wife, the consent of the senior wife;
- (c) The ceremonial slaughtering of a ram in a rite called Ngurario;
- (d) Ruracio (bride price) partly paid;
- (e) Commencement of cohabitation.

47. However, in the *Eliud Maina Mwangi Case*, the Court of Appeal opined that customary law evolves with time. The Court stated thus:

“Customary law is certainly not static. Like all other human inventions, it is dynamic and keeps evolving from generation to generation. Customary ceremonies cannot therefore be expected to be conducted in 2013 in exactly the same way that they were conducted in, say, 1930. To insist on rigid customary ceremonies at all times is the surest way of rendering customary law obsolete. For example, essential steps like payment of dowry may be satisfied by payment of the monetary equivalent of such items as goats and cows instead of delivery to the prospective in-laws every item in kind, such as beer, honey, live goats and cows. The bottom line appears to be that the essential steps and ceremonies must be performed, irrespective of the form in which they are performed.”

48. The Objector submits that she commenced cohabitation with the deceased around 1972 and then formalized the marriage by ruracio ceremony but she cannot remember the year. She recalls that it must be after she had all her children, that is after 1987. He visited her home twice before he died. She says they brought a goat and sheep. Minutes were taken but she does not have them. She has called two witnesses who state that they were present at this ceremony. I find it strange that the biological brothers



of the deceased did not attend this ceremony. Whilst conceding that culture is not static, one essential component of traditional marriage ceremonies is that family play a central role in these events.

49. It does not help that there isn't any documentary evidence of this visit when it is a well-established practice among the Kikuyu especially that there will be minutes and photographs of the ceremonies leading to marriage. The Objector and her witnesses confirmed that minutes and photographs were taken but have not availed then. Both the Objector and her witnesses cannot remember the date the visit happened. The Objector vaguely remembers it was after 1987, Peter Njoroge Gathina says it was 'in the early 1990s. The other witness to the ruracio, Kabera Muniu, did not give the date when it happened. 1<sup>st</sup> Administrator also stated that the deceased would have sought her consent or at least informed her in accordance with Kikuyu custom. This assertion was not controverted.
50. It is also contended that the marriage was formalized posthumously in 2018 by the performance of ngurario. At the time this ceremony was celebrated the *Marriage Act* was in effect and the only valid marriages recognized by the Act are those between two consenting and therefore living adults. One of the witnesses indicated that the ngurario was performed posthumously so that the children would be paid for dowry. Whatever the cultural underpinnings, the ceremony cannot have formalized a marriage. That should put to rest the question of whether the Objector was married to the deceased under Kikuyu customary law. It is my finding that the Objector has failed to discharge the burden of proof.
51. The secondary issue is whether the Objectors long cohabitation with the deceased can be presumed to be a marriage. The Supreme Court in the decision of MNK v POM; *Initiative for Strategic Litigation in Africa (ISLA) (Amicus Curiae) (Petition 9 of 2021)* [2023] KESC 2 (KLR) (Family) (27 January 2023) (Judgment) has laid down the strict parameters within which a court will presume a marriage. At the heart of this is a demonstration of the common intention of a marriage between the parties. In MWK v A M W (Supra) Ngugi J as he then was summarised it thus; 'To sum it, there has to be evidence that the long cohabitation is not close friendship between a man and woman, that she is not a concubine but that the cohabitation has crystallized into a marriage and that it is safe to presume that there is a marriage'.
52. Among the factors that would lead a Court to presume a marriage that have been alluded to by the Objector are, that the parties bought properties together, had children together and were recognized as man and wife by others. The Objectors witnesses were persuaded that the two were man and wife because they believed dowry had been paid. They also knew that the Couple had children together and they were aware that the two lived together and carried out business together. It is the gaps in the evidence of the Objector that cast doubts.
53. First, she does not identify where they lived, it is not enough to say that they lived in Oloitoktok. She was duty bound to identify for the Court with some precision where in Oloitoktok there home was. She says that they bought property together but does not identify these properties or present evidence as to their existence. She says her children were sired by the deceased but she does not present any evidence to establish the paternity of her children. It does not help that the said children who are adults did not participate in these proceedings. This is important as the Administrators contend that the two were business partners. Further the Supreme Court in MNK v POM (supra) cautioned that Courts ought to be alive to the fact that parties may determine to cohabit and not necessarily marry.
54. The role of the probate court is to ensure that only the rightful beneficiaries of a deceased person have access to the estate of a deceased person, especially because the deceased is not present to safeguard his estate and it would amount to a great injustice if pretenders were to get a share at the expense of rightful beneficiaries. Where, as in the instant case, the Objector leaves so many questions unanswered the Court must shut the door on the claim. Accordingly, I find that the Objector has not laid a basis



for the revocation of the grant as she has not established that she was a wife of the deceased or that her children were the children of the deceased. The Administrators were therefore under no obligation to include her and them in the petition.

55. Having so determined, I find that the grant will be confirmed and properties distributed in accordance with the schedule of distribution set out in paragraph 6 of the affidavit sworn on 2<sup>nd</sup> June 2020 as the beneficiaries have signed the requisite consents.
56. On costs, each party will bear their own costs
57. In conclusion these are the orders
  - a. The Summons for revocation dated 22<sup>nd</sup> September 2020 is dismissed in its entirety
  - b. The Grant herein issued on 29<sup>th</sup> October 2019 is confirmed. Distribution of the estate as per schedule of distribution at paragraph 6 of affidavit sworn on 2<sup>nd</sup> June 2020
  - c. No order as to costs

**SIGNED, DATED AND DELIVERED VIRTUALLY IN NAIROBI ON 26<sup>th</sup> DAY OF July, 2024.**

**P M NYAUNDI**

**HIGH COURT JUDGE**

In the presence of:

Fardosa Court Assistant

