



REPUBLIC OF KENYA



**In re Estate of Wilfred Gitau Munge (Deceased) (Succession Cause 1030 of 2008)
[2024] KEHC 10377 (KLR) (Family) (23 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10377 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 1030 OF 2008
SN RIECHI, J
AUGUST 23, 2024
IN THE MATTER OF THE ESTATE OF WILFRED GITAU MUNGE (DECEASED)**

JUDGMENT

1. This petition relates to the estate of Wilfred Gitau Ndunge who died on 18th January, 1980. He was survived by the following beneficiaries:

Name Relationship Status

- a. Siplhilas Wanjiku Gitau Wife Deceased
 - b. Winfred Nyokabi Gitau Daughter Deceased
 - c. Ndichu Gitau Son Deceased
 - d. Kenneth Mwathi Gitau Son Deceased
 - e. Herbert Mungai Son Deceased
 - f. Wangu Gitau Daugher 73 Years
 - g. Leah Gachiku Gitau Daughter 69 years
 - h. Irene Njoki Gitau Daughter 66 years
 - i. Joan M Karungari Daughter 63 years
 - j. Lincon N Gitau Son 59 years
 - k. Nancy Rugutu Gitau Daughter 56 years
2. He had Dagoretti/Mutuini/189 as his only property which comprise of the estate. The grant of letters of administration was issued severally to administrators who died before completion of the succession. By applications, the deceased administrators were substituted on 10th March, 2020 a grant of letters of



administration was issued to Esther Nyaguthii Gitau and Joan Margaret Kurungari. On 1st February, 2017 the administratrix filed these summons for confirmation seeking the grant issued on 10th march, 2020 be confirmed. The same was later abandoned.

3. The administrators then filed their summons for confirmation dated 16th march, 2023 which came up for hearing on 24th July, 2023. The summons is supported by affidavit sworn by Joan Karengari Njoroge sworn on 16th March, 2023. Wangui Gitau filed an affidavit of protest against the confirmation of the grant.
4. The matter proceeded by way of *viva voce* evidence. Esther Nyaguthii Giatu testified on behalf of the administrators. She testified that the deceased Wilfred Gitau Munge was married to Sybilla Wanjiru Gitau who is also deceased. They had 9 children: -

Name Relationship Status

1. Sybilla Wanjiru Gitau Wife Deceased
 2. Winfred Nyokabi Kimani Daughter Deceased
 3. Edwin Ndichu Gitau Son Deceased
 4. Kenneth Mwathi Gitau Son Deceased
 5. Wangui Gitau Daughter 78 years
 6. Leah Gachiku Gitau Daughter 74 years
 7. Irene Njoki Gitau Daughter Deceased
 8. Joan M Karungari Daughter 67 years
 9. Lincon N Gitau Son Deceased
 10. Nancy Rugutu Gitau Daughter 61 years
5. The deceased had only one property Dagoretti Mutuini/189. In their proposed mode of distribution is as follows: -



BENEFICIARIES	ASSET	SHARE
1. The estate of Edwin Ndichu Gitau 2. The Estate of Kenneth Mwathi Gitau 3. The Estate of Lincoln Mumira Gitau	$\frac{3}{4}$ of the Upper Portion of Dagoretti/Mutuini/189	Jointly in equal shares
The families of the six daughters of the deceased will jointly own the portion. These are: 1. The Estate of Winfred Nyokabi Kimani 2. Wangui Gitau 3. Leah Gachiku Mulokwa 4. The estate of Irene Njoki Gitau 5. Joan Karungari Njoroge 6. Nancy Ruguru Kinuthia	$\frac{1}{4}$ of the Upper Portion of Dagoretti/Mutuini/189 where their mother the late Sybilla Wanjiru Gitau (deceased) residence stands	Jointly in equal shares
1. The Estate of Winfred Nyokabi Kimani 2. The estate of Edwin Ndichu Gitau 3. The estate of Kenneth Mwathi Gitau 4. Wangui Gitau 5. Leah Gachiku Mulokwa 6. The estate of Irene Njoki Gitau 7. Joan Karungari Njoroge 8. The Estate of Lincoln Mumira Gitau 9. Nancy Ruguru Kinuthia	The Lower part of Dagoretti/Mutuini/189	To be sold and the proceeds to be shared equally among all the beneficiaries or their surviving families

6. Her proposal is supported by eight (8) of the beneficiaries. As for Herbert Mungai he was not provided for as he is deceased and was not married.



7. Wangui Gitau the protester did not testify but adopted her proposed mode of distribution. In her view the estate should be distributed as follows:



Number	Particulars of Assets	Beneficiary	Share
Upper Side Portion Dagoretti/ Mutuini/189	<ol style="list-style-type: none"> 1. The Estate of Winfred Nyokabi Gitau 2. The Estate of Ndichu Gitau 3. The Estate of Kenneth Mwathi Gitau 4. The Estate of Herbert Mungai 5. Wangui Gitau 6. Lean Gachiku 7. The Estate of Irene Njoki gitau 8. Joan M Karungari 9. Lincoln N Gitau 10. Nancy Ruguru Gitau 	In Equal Shares	
Lower side portion Dagoretti/ Mutuini/189	<ol style="list-style-type: none"> 1. The Estate of Winfred Nyokabi Gitau 2. The Estate of Ndichu Gitau 3. The Estate of Kenneth Mwathi Gitau 4. The Estate of Herbert Mungai 5. Wangui Gitau 6. Lean Gachiku 7. The Estate of Irene Njoki gitau 8. Joan M Karungari 9. Lincoln N Gitau 10. Nancy Ruguru Gitau 	To be sold and proceeds to be shared equally among the beneficiaries of their surviving families.	



8. The protesters proposed mode of distribution is not supported by any other beneficiary. In her affidavit of protest she avers that the administrators proposed mode of distribution leaves out Herbert Mungai (deceased) despite being a son of deceased. She also depones that the administrators proposed mode of distribution gives $\frac{3}{4}$ to the sons of deceased and 6 daughters to share the remaining quarter.
9. I note that the deceased died in 1980. The children of the deceased are quite elderly. The youngest aged 61 years old. All the male beneficiaries are deceased. The surviving daughters are Wangui Gitau – 78 years, Joan Karungari Njoroge - 67 years, Leah Gachiku Mulokwa – 74 years and Nancy Ruguru Kinuthia – 61 years. All of these surviving daughters have confirmed that they agree with the distribution by the administrators except the daughter of Wangui Gitau the protester.
10. I have considered the protest and the administrators proposed mode of distribution. I find the distribution equitable and fair. I find no merit in the protest which is hereby dismissed. The grant issued is hereby confirmed on the distribution as hereunder: -



Number	Particulars of Assets	Beneficiary	Share
Upper Side Portion Dagoretti/ Mutuini/189	11. The Estate of Winfred Nyokabi Gitau 12. The Estate of Ndichu Gitau 13. The Estate of Kenneth Mwathi Gitau 14. The Estate of Herbert Mungai 15. Wangui Gitau 16. Lean Gachiku 17. The Estate of Irene Njoki gitau 18. Joan M Karungari 19. Lincoln N Gitau 20. Nancy Ruguru Gitau	In Equal Shares	
Lower side portion Dagoretti/ Mutuini/189	11. The Estate of Winfred Nyokabi Gitau 12. The Estate of Ndichu Gitau 13. The Estate of Kenneth Mwathi Gitau 14. The Estate of Herbert Mungai 15. Wangui Gitau 16. Lean Gachiku 17. The Estate of Irene Njoki gitau 18. Joan M Karungari 19. Lincoln N Gitau 20. Nancy Ruguru Gitau	To be sold and proceeds to be shared equally among the beneficiaries of their surviving families.	



Each party to bear their own costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 23RD DAY OF AUGUST,
2024**

S N RIECHI

JUDGE

