



REPUBLIC OF KENYA



**In re Estate of Jeremiah Wairegi Kugwa (Deceased) (Probate & Administration
43 of 1994) [2024] KEHC 10100 (KLR) (9 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10100 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
PROBATE & ADMINISTRATION 43 OF 1994
RN NYAKUNDI, J
AUGUST 9, 2024**

IN THE MATTER OF THE ESTATE OF JEREMIAH WAIREGI KUGWA (DECEASED)

IN THE MATTER OF

**GRACE WAITHERA WAIREGI 1ST PETITIONER
PETER AMOS KIBOBO WAIREGI 2ND PETITIONER
ELIZABETH MWENDWA WAIREGI 3RD PETITIONER
GEORGE KARANJA WAIREGI 4TH PETITIONER**

RULING

1. The Petitioners filed summons for confirmation of grant dated April 16, 2024 relating to the estate of the late Jeremiah Wairegi Kugwa. The Petitioners seek reliefs as hereunder:
 - a. That the Grant of Probate (or letters of Administration Intestate) made to the said Grace Waithera Wairegi, George Karanja Wairegi, Peter Amos Kibobo Wairegi, Elizabeth Mwendwa Wairegi And Mary Wamboi Wairegi in this matter be confirmed and the estate be divided in terms of the annexed proposed mode of distribution.
 - b. That the costs of this application be costs in the cause.
2. The summons are based on the grounds on the face of it among others: that it is more than six months since the grant of Letters of Administration Intestate was issued and that the Applicants are the beneficiaries of the deceased's estate.
3. The proposed mode of distribution was supported by an affidavit dated 27th May 2024 sworn by Grace Waithera Wairegi, the 1st Petitioner/Applicant and grounds:



- a. That she is one of the administrators of the Estate of the Late Jeremiah Wairegi Kugwa alongside her co-administrators, Peter Amos Kibobo Wairegi, Elizabeth Mwendwa Wairegi And George Karanja Wairegi.
- b. That she is duly authorized to make and swear the affidavit on behalf of her co-administrators hence competent to make and swear this affidavit.
- c. That she hereby proposes the mode of distribution as follows: -

Property	Heir	Shares
Eldoret Municipality Block 5/486 Measuring approximately 0.0488 HA	Mary Wamboi Wairegi	To be owned in equal shares
	Florence Nyambura Wairegi	
	Margaret Wangare Wairegi	
	Elizabeth Mwendwa Wairegi	
	Grace Waithera Wairegi	
Chania/mataara/892 Measuring approximately 2.45HA	Esther Kabura Wairegi	0.81 Ha
	Peter Amos Kibobo Wairegi	0.81 Ha
	Samuel Mbugua Wairegi	0.81 Ha

4. The 1st Petitioner/Applicant's proposed mode of distribution was opposed by the 3rd Petitioner/Applicant through an affidavit dated 7th June 2024 sworn by George Karanja Wairegi and grounds:
 - a. That he is one of the Administrators of the estate of the late Jeremiah Wairegi Kugwa alongside his other co-administrators.
 - b. That he hereby by virtue of Section 73 of the [Law of Succession Act](#), Cap 160 propose that the estate be distributed as herein under: -



Property	Heirs	Shares
Eldoret Municipality Block 5/486 measuring approximately 0.0488Ha	All	To be sold and the proceed to be shared equally by all the beneficiaries
Chania/mataara/892 measuring approximately 2.45HA	Mary Wamboi Kiboi	½ Acre
	Margaret Wangare Njagi	½ Acre
	Obadiah Njoroge Wairegi (deceased) Irene Muchina Njore	1 Acre
	George Karanja Wairegi	1 Acre
	Florence Nyambura Wairegi	½ Acre
	Esther Kabura Wairegi	½ Acre
	Peter Amos Kibubo	1 Acre
	Grace Waithera	½ Acre
	Samwel Mbugua Wairegi	1 Acre

c. That their late father left the following beneficiaries and all have been captured in the above mode of distribution.

1. The Petitioners/Applicants did file Affidavit in support of summons for the confirmation of Grant of Administration Intestate dated 16th April 2024. The petitioners/Applicants also filed a consent to confirmation of Grant dated 16th April 2024 in which they stated that they confirm that the Estate may be distributed in the following manner: -

Property distribution

- i. Eldoret Municipality Block 5/486 measuring 0.0488HA to:
 - a. Mary Wamboi Wairegi
 - b. Florence Nyambura Wairegi
 - c. Margaret Wangare Wairegi
 - d. Elizabeth Mwendwa Wairegi
 - e. Grace Waithera Wairegi
- i. Chania/Mataara/892 measuring approximately 2.45HA to:
 - a. Esther Kabura Wairegi



- b. Peter Amos Kibobo Wairegi
- c. Samuel Mbugua Wairegi

- 6. It however important to note that George Karanja Wairegi, the 4th Petitioner/Applicant herein neither signed the Affidavit in support of summons for the confirmation of Grant of Administration Intestate dated 16th April nor the consent to confirmation of Grant dated 16th April 2024 in which the beneficiaries stated how the Estate may be distributed. This thus raises matters of law.
- 7. I have gone through the record and none has objected to the consent to confirmation of the said grant.
- 8. In the case of *Mpatinga Ole Kamuye vs Meliyo Tipango & 2 others* (2017) eKLR the court opined

“this court’s view before distribution of the estate of the deceased under section 71 of the *Law of Succession Act* Cap 160, the court must satisfy itself that the beneficiaries of the estate are the legitimate beneficiaries of the estate: that there are assets that comprise of the deceased’s estate and are available for distribution after settling all liabilities and having the net estate for distribution.”

Consequently, the Application is merited and the same is allowed as follows:

- a. The Grant of Probate (or Letters of Administration dated 16th April 204 made to said Grace Waithera Wairegi, George Karanja Wairegi, Peter Amos Kibobo Wairegi, Elizabeth Mwendwa Wairegi And Mary Wamboi Wairegi in this matter is hereby confirmed.
- b. The estate be divided in terms of the mode of distribution proposed in the Affidavit sworn by Grace Waithera Wairegi, the 1st Petitioner/Applicant.

- 9. It is ordered so.

DATED SIGNED AND DELIVERED AT ELDORET, THIS 9TH DAY OF AUGUST 2024

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R. NYAKUNDI

JUDGE

