



REPUBLIC OF KENYA



**In re Estate of Richard Njoroge Njogu (Deceased) (Probate & Administration  
127 of 1999) [2024] KEHC 13041 (KLR) (25 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13041 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
PROBATE & ADMINISTRATION 127 OF 1999**

**MA ODERO, J**

**OCTOBER 25, 2024**

**IN THE MATTER OF THE ESTATE OF RICHARD NJOROGE NJOGU (DECEASED)**

**RULING**

1. The issue pending determination before this court is the question of the mode of distribution of the estate of the late Richard Njoroge Njogu who died intestate on 18<sup>th</sup> May 1998. A copy of the Death Certificate Serial Number 454593 was filed in Court on 4<sup>th</sup> March 1999. The Deceased was a polygamous man who had three (3) wives and several children.
2. Following the demise of the Deceased Grant of letters of Administration Intestate was on 31<sup>st</sup> July 2001 made to JAne Kanyua Njoroge, Cecilia Muthoni Njoroge And John Njoroge. The Grant was duly confirmed on 5<sup>th</sup> October 2004.
3. The Administrator John Mundia Njoroge filed a Chamber Summons dated 2<sup>nd</sup> June 2022 seeking to summon the Government Surveyor for cross-examination. That application was compromised by way of a consent dated 14<sup>th</sup> February 2023 which consent was adopted by the court on 16<sup>th</sup> February 2023.
4. The consent provided inter alia that  

“The Applicants and the Respondents at their own respective expenses to within 7 days of the date of this order appoint and instruct their separate experts being a surveyor and an agriculturist to work in conjunction for the purpose hereinafter specified.
5. The parties have been unable to agree on whether this consent has been fully complied with and which report should be accepted by the court.
6. The matter was canvassed by way of written submissions. The 2<sup>nd</sup>, 3<sup>rd</sup>, 8<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Applicants filed the written submissions dated 9<sup>th</sup> July 2024, whilst the Respondents filed the written submissions dated 16<sup>th</sup> September 2024.



## **Analysis And Determination**

7. The Surveyor and the Agriculturist were to visit and inspect the property known as LR Number 6336/ 2 Timau in order to demarcate the areas found to be very productive, medium productive and completely unproductive.
8. Pursuant to the consent the Respondents appointed one JOseph Gachagua Gathigi as their Agriculturist and Willy Kiama Muchemi as their surveyor. On their part the Applicants appointed JASON Gathumbi Ndegwa as Agriculturist and Douglas Gikonyo as the surveyor.
9. The two Agriculturists appointed by the parties prepared a joint report which they both signed
10. The Court order dated 16<sup>th</sup> February 2023 clearly provided that the parties were to jointly table before the Court drawn up by an Agriculturist and a Surveyor. The parties were to file in court a joint report. The joint report which was table in Court is the one which was filed in Court on 2<sup>nd</sup> May 2023.
11. The 2<sup>nd</sup>, 3<sup>rd</sup>, 8<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Applicants however decided to commission their own separate report through their Advocate Mwangi Kariuki & Company Advocates which report was dated 5<sup>th</sup> April, 2024. This splinter report was not provided for in the Consent and was therefore not sanctioned by the Court.
12. The court orders only envisaged a report to be filed jointly by two parties namely the Applicants and the Respondents. No provision was made for a group of Applicants to file a separate report. The report filed in Court on 2<sup>nd</sup> May 2023 in my view includes all the Applicants and there is no indication that the 2<sup>nd</sup>, 3<sup>rd</sup>, 8<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Applicants were excluded from the report filed on 2<sup>nd</sup> May 2023.
13. Accordingly I find that the report which is inclusive of all parties and which complies with the orders made by the Court on 16<sup>th</sup> February 2023 is the report filed in court on 2<sup>nd</sup> May 2023. I adopt the said report. I direct that the land be formally surveyed and sub-divided according to the report filed in court on 2<sup>nd</sup> May 2023. It is so ordered.

**DATED IN NYERI THIS 25<sup>TH</sup> DAY OF OCTOBER, 2024.**

**MAUREEN A. ODERO**

**JUDGE**

