



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Lydia Kageci Waihenya (Deceased) (Succession Cause
328 of 2014) [2023] KEHC 18208 (KLR) (25 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 18208 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION CAUSE 328 OF 2014
FN MUCHEMI, J
MAY 25, 2023**

BETWEEN

**KAREN WANJIRU NJOROGE 1ST PROTESTOR
RACHEL GATHONI GITAU 2ND PROTESTOR
MARY WANGARI KARUORO 3RD PROTESTOR
CAROLINE WACHEKE MBAKI 4TH PROTESTOR
MARGARET GACHAMBI WAWERU 5TH PROTESTOR
PETER MAINA WAIHENYA 6TH PROTESTOR
DAN KAMUNYA WAIHENYA 7TH PROTESTOR**

AND

TERA WAIGWA WAIHENYA PETITIONER

AND

CHRISTOPHER KAGEMA GICHUHI INTERESTED PARTY

JUDGMENT

1. The 1st -5th protestors filed their protests on November 27, 2017 followed by the 6th protestor who filed his on May 30, 2018. The 7th protestor now deceased and had filed his protest on November 1, 2013. His son Willis Waihenya Kamunya filed his affidavit on October 11, 2019 stepping in the shoes of his late father. He adopted the contents of the affidavit of his father as his evidence.
2. The cause was heard by way of viva voce evidence and parties were at liberty to call witnesses.



The 1st, 5th Protestors' Case

3. The 3rd protestor testified on behalf of herself and of the 1st -5th protestors. She told the court that she is a daughter of the deceased and that the deceased owned two parcels of land LR. No. Nyeri/Kiganjo/8343/21 and LR. No. Nyeri/Kiganjo/8152/20 each measuring approximately 25.6 acres. She further testified that the 6th protestor borrowed a loan from Cooperative Bank of Kenya in his business name Waihenya Chemist. The said loan was for the amount of 2,700,000/= and the deceased's land LR No. Nyeri/Kiganjo/8152/20 was used as a collateral. What followed was that the said loan fell into arrears. In the year 2009, the bank called for the sale of the subject property by way of public auction to recover the outstanding sum. The 6th protestor called his siblings for a meeting to discuss how the matter could be resolved. A meeting of the beneficiary was held in Naivasha in the house of the 7th protestor on 02/05/2009 who is now deceased. The meeting was attended by Rev. Kagema the Interested Party, Gichuhi the deceased administrator, Stephen Kihara, Peter Maina 6th protestor, Wangari herself, Caroline Wacheke 4th protestor, Dan Kamunya the deceased administrator and Rachel Gathoni 2nd protestor. It was resolved that the beneficiaries do sell ten (10) acres out of one of the parcels of land at a consideration of Kshs.1,200,000/= per acre to raise the money to repay the loan.
4. The 3rd protestor further testified that the administrator and the 6th respondent went ahead and sold the land without the others approval and repaid an outstanding loan of the 6th protestor. However, the purchase price was not accounted for to the other beneficiaries. It was the 3rd protestor's evidence that the petitioner went ahead to distribute the estate and left the daughters of the deceased out. She proposed that the estate be distributed equally amongst all the beneficiaries. She further testified that the proposed distribution takes into consideration the interested party's interest of 10 acres with each of the beneficiaries surrendering 0.87 acres. She further added that the 6th protestor ought to give 3.875 acres to the interested party to make the whole ten acres because he was the beneficiary of the loan that the deceased's estate had to pay for him.
5. As for LR. Kabaru/Mathina/230 PW1 said it belongs to her father and that the beneficiaries have already completed succession proceedings of her father's estate in CM Succession Cause No. 256 of 2018. Hence the said property ought not to be on the list of assets to be distributed.
6. The witness further testified that the 6th protestor is the one who brought the interested party to purchase the said property and that the interested party paid Kshs.5 million as part of the purchase price but he is yet to pay a balance of Kshs.7 million.
7. In regard to the loan, the witness said that it was for the benefit of the 6th protestor. As far as she was concerned the witness said she did not know whether there were other directors in the company and that her own mother was one of the directors.
8. The Interested Party testified as PW2. He adopted his statement dated 13/7/2022 and testified that he was a friend and neighbour of the deceased herein as well as with her late husband. further that in 2008, the petitioner approached him and offered to sell him a property at Chaka Kiganjo that belonged to his late father at Kshs.400,000/= and he agreed to buy it in the belief that the petitioner had the authority to sell the land. He further testified that he paid the Kshs.400,000/= to the petitioner on May 20, 2008 and he agreed to transfer the property to him within 90 days.
9. PW2 further testified that later, the 6th protestor called him and informed him that their parents land was threatened to be auctioned because of an outstanding loan of about Kshs. 8 million with Cooperative Bank of Kenya. The witness further testified that the 6th protestor invited him to a meeting in Naivasha on 2nd May 2009 where the family agreed that Kshs. 400,000/- be refunded back to him



for the earlier sale and they agreed to sell to him 10 acres of land at Kshs. 1,200,000 per acre to enable them clear the outstanding loan.

10. PW2 further testified that on May 6, 2009, he was visited by the then administrator Dan Kamunya, 4th protestor, 6th protestor, Stephen Kihara and 2nd protestor. It was agreed that PW2 gives the protestors Kshs. 100,000/- to be used for opening an account where he would be depositing the money for the purchase of the land. The witness further testified that on May 13, 2009, he transferred the sum of Kshs. 5million to account number 1111868735 in the name of Dan Kamunya Waihenya at KCB.
11. The witness further stated that the Kshs.400,000/- would not be refunded to him but would be put in an account to be part of the purchase price for the 10 acres that the family agreed to sell to him. further that the protestors and himself did not sign any agreement for the purchase of the land and neither did they go to the land control board to obtain the requisite consent. He further stated that he did not ask the beneficiaries who received the cash to sign any acknowledgements for the deposits he paid to them.
12. The witness testified that he paid a total of Kshs. 8,915,000/-. He further testified that he gave Mr. Stephen Kihara money to hand over to the family because he was the chairman of the deceased's family and therefore had authority to receive the money.

The 6th Protestor's Case

13. The 6th protestor testified as PW3 to the effect that Waihenya Chemist is a limited liability company and the loan was held by the directors and not him as a person. He further testified that the share he is entitled to in the deceased's estate should not be reduced for the whole loan borrowed by his company and that the liability of each director ought to be considered.
14. PW3 proposed that his sisters the 1st, 2nd, 3rd, 4th and 5th protestors should be given 15 acres to share equally while the petitioner takes 15 acres out of LR No. Nyeri/Kiganjo/8152/20 for he was the first born in the family and has been managing the estate. He testified that his sisters got married and they are financially well off with the benefit of other opportunities where they are married. It was further deposed that the 7th protestor, should get 10 acres out of LR No. Nyeri/Kiganjo/8152/20 as he is the eldest child and he spent his wealth looking after his younger siblings. The 6th protestor testified that he ought to get 10 acres out of LR No. Nyeri/Kiganjo/8343/21 for his deceased father, a son of the deceased gave him 26 acres through a written will.

The Applicant's Case

15. As earlier stated, the applicant said he relied on his affidavits sworn on November 1, 2017, June 4, 2018, June 20, 2018 and 1st December 2019 as his evidence. However, the court took a quick look at the papers in the court file but only found affidavits sworn on 30/05/2018 and 11/10/2019 in this file and accordingly communicated the information to the petitioner during the hearing..
16. The applicant stated that he lives and has raised his children on the suit properties and further that LR. No. Ruguru/Gachuka/667 was his own land that was sold by his parents on 11/8/1962. The land was registered in the name of the applicant having been given to him by his grandfather. DW1 testified that after the deceased sold LR. No. Ruguru/Gachuka/667, his parents bought LR. No. Nyeri/Kiganjo/8343/21 and LR No. Nyeri/Kiganjo/8152/20 where they got jointly registered as proprietors.
17. The applicant further testified that LR No. NYERI/KIGANJO/8152/20 ought not to be distributed as he has lived there all his life and has established a home. He further stated that his sisters have their



own homes and land elsewhere and therefore should not inherit any property from the estate of the deceased.

18. The applicant further testified that he had to sell his Dental clinic business in Nanyuki in order to raise funds to settle part of the loans borrowed so as to save the assets being sold by public auction.
19. DW1 testified that the proprietor of LR No. Ruguru/Gachuka/667 was his grandfather Waigwa s/o Waihenya who gave him the land and that he was the registered owner from March 1959 to 1962. He later gave his father the land to sell and that the proceeds realised from the sale were used to purchase the current assets of the deceased.
20. The parties filed submissions in support of their respective cases.

The 1st, 5th Protestor's Submissions

21. The protestors rely on article 27 of *the Constitution*, section 38 of the *Law of Succession Act* and the case of *Estate of Francis Mwangi Mbaria (Deceased)* [2018] eKLR and submit that the estate ought to be distributed equally. The protestors submit that from the entries on the respective titles as regards LR No. Nyeri/Kiganjo/8152/20 and 8343/21, the properties were charged on 2/8/1991 and 9/9/1996 respectively. The charge in respect of LR No. Nyeri/Kiganjo/8152/20 to Cooperative Bank of Kenya Limited for Kshs. 2,700,000/- in favour of Waihenya Chemist which was discharged on 31/7/2009 using the funds received from the interested party on 13th May 2009. The charge in respect to LR No. Nyeri/Kiganjo/8343/21 to Barclays Bank of Kenya for Kshs. 300,000/- was discharged on 25/1/2010 using the funds received from the interested party.
22. The protestors thus submit that consideration must be given as to who benefited from settlement of a particular liability and the same ought to come out of the share of the estate they are entitled to. As such, they argue that when the loan payments are applied to the individual who benefited directly, their mode of distribution is the most accurate and ought to be used by the court. Moreover, they submit that the modes of distribution by the petitioner, the 6th & 7th protestors where gender or marital status is a consideration is contrary to article 27 of *the Constitution* and has no basis in grounding in section 38 of the *Law of Succession Act* and therefore ought to be dismissed.
23. The protestors further submit that the allegations by the petitioner that the assets were bought with proceeds of sale of LR No. Ruguru/Gachika/677 are unsupported by evidence and of no relevance to the distribution of the estate. Furthermore, the argument by the petitioner that he should inherit LR. No. Nyeri/Kiganjo/8152/20 by himself because he has lived and raised his family there is untenable. The protestors contend that having benefited from its use and occupation for all those years, the petitioner ought to offer something back to the estate by meeting some of the expenses.

The 6th Protestor's Submissions

24. The 6th protestor submits that the deceased died on March 30, 1999 leaving the two assets with liabilities which were the two loans borrowed from Barclays Bank of Kenya and Co-operative Bank of Kenya in favour of Waihenya Chemist Ltd. The 6th protestor avers that the Co-operative Bank loan was not borrowed solely for his benefit but for the benefit of the company which had other directors. He produced documents showing that Waihenya Chemist is a limited liability company whereas he and the deceased are shareholders. The company was run by the 6th protestor due to the statutory requirements that it must be manned by a qualified pharmacist. He said he is a pharmacist by profession and that he owns only 10 ordinary shares and the estate of the deceased owns 490 shares.



25. The 6th protestor submits that LR No. Ruguru/Gachika/677 was never the petitioner's property and it beats logic for the petitioner to assert that he was the registered owner of the property at the age of 6 years and that he transferred it to his father when he was 9 years old. The 6th protestor further submits that his grandfather could not love the petitioner more than himself to the extent of registering the only land he had in the name of a minor grandson. The 6th protestor further submits that the petitioner stated that his grandfather died after the land was transferred to his father who later sold it and yet the grandfather did not object to the sale of the only land he had reserved for the petitioner. As such, the 6th protestor submits that there is no evidence that is connecting the acquisition of the estate assets to LR No. Ruguru/Gachika/677.
26. The 6th protestor further submits that although the applicant has shown how he sold his business to protect the estate and how he spent time and money to ward off auctioneers, he has not told the court how he has benefited by solely utilizing over 50 acres of land for all those years to the exclusion of all the other siblings. As such, the 6th protestor submits that the applicant owes the estate more than it owes him.
27. The 6th protestor submits that the estate ought to refund the interested party his money as it is wrong to purport to sell part of the estate before the appointment of an administrator. Further, the 6th protestor submits that the said property is agricultural land and any transaction without the consent of the land control board is null and void.
28. The 6th protestor argues that he is the last born son of the deceased and Kikuyu custom demands that the last born ought to inherit the homestead of the parents. He further submits that the said custom is not inconsistent with any written law nor is it repugnant to justice and morality.
29. The 6th protestor states that he ought to benefit from the estate of the deceased and his share should not be reduced because of the estate's liabilities.

The Petitioner's Submissions

30. The petitioner submits that he is the administrator of the deceased's estate as appointed by the court on 15th April 2016. The petitioner submits that his grandfather bought LR No. Ruguru/Gachika/667 in 1959 and registered it under the petitioner's name Waigwa s/o Waihenya. He further submits that he gave the land to his father to sell and his father purchased LR No. Nyeri/Kiganjo/8152/20 and 8343/21.
31. The petitioner further submits that he took a loan on LR No. Nyeri/Kiganjo/8152/20 on 26/7/1980 and 23/8/1983 for Kshs 300,000/- and Kshs. 150,000/- respectively and he let the 7th respondent use the said facilities as he required a loan to start a business in Naivasha. It is further submitted that the 6th protestor took a facility trading as Waihenya Chemist on 1/9/1997 for a sum of Kshs. 2,700,000/- from Cooperative bank of Kenya Limited.
32. The applicant argues that he has lived and raised his family on LR No. Nyeri/Kiganjo/8152/20. He further states that he has connected water and electricity and he has known no other home. He submits that he did not have the privilege of using the title deeds as collateral as he allowed his other siblings to build themselves. He further submits that he let them use the documents on the understanding that the same will be eventually his turn. He further submits that his sisters are well endowed and happily married with homes in different parts of the country. He therefore urges the court to adopt his mode of distribution.



Issues for determination

33. The main issues for determination are:
- a. Whether the protests have merit.
 - b. Whether the Interested Party has a beneficial interest in the deceased's estate.
 - c. Identification of the beneficiaries and the assets
 - d. The mode of distribution of the estate to be adopted.

The Law

Whether the protests have merit.

34. It is not disputed that the deceased died on March 30, 1999 and that he was survived by the following children :-
- a. Karen Wanjiru Njoroge – daughter
 - b. Rachel Gathoni Gitau – daughter
 - c. Tera Waigwa Waihenya – son
 - d. Dan Kamunya Waihenya – son (deceased)
 - e. Mary Wangari Karuoro – daughter
 - f. Peter Maina Waihenya – son
 - g. Caroline Wacheke Mbaki – daughter
 - h. Margaret Gachambi Waweru – daughter.

The Applicant/Petitioner

35. The administrator listed as part of the deceased's estate available for distribution in the Summons for confirmation of grant dated November 1, 2017 are as follows:-
- a. LR. No. Nyeri/Kiganjo/8152/20 – 25.6 acres
 - b. LR No. Nyeri/Kiganjo/8343/21- 25.6 acres
 - c. LR. No. Kabaru/Mathina/230
 - d. KCB Shares
 - e. KCB Shares A/c No. 014-474
36. The court record shows that the parties have provided title documents for the properties LR No. Nyeri/Kiganjo/8152/20 and LR No. Nyeri/Kiganjo/8343/21 each measuring approximately 25.6 acres. Therefore without any proof in the form of titles to ascertain LR. No. Kabaru/Mathina/230 the court cannot with certainty state that the property is available for distribution. More so, pursuant to the submissions by applicant, the said property was jointly owned by the deceased and her late husband. There is evidence by PW1 which was not disputed that the said land formed part of the estate of Mr. Waigwa Waihenya, the patriarch of the family. This cause is for the estate of the mother of the beneficiaries herein.



37. The applicant states that he ought to be allocated LR. No. Nyeri/Kiganjo/8152/20 solely because he was the registered proprietor of LR. No. Ruguru/Gachika/667 which he gave his parents to sell and his parents used the proceeds of sale to purchase LR No. Nyeri/Kiganjo/8152/20. The documents accompanying the petitioner consist of search which indicates that LR No. Ruguru/Gachika/667 belonged to the deceased Waigwa s/o Waihenya registered in 1959. In 1962, the title show that the proprietor of the land was Waihenya s/o Ngima. Nowhere does it show that the land was ever registered in the name of the applicant. Furthermore, the applicant testified that that the time he was between the ages of 6-9 years old when the land was given to him by his grandfather. Later, the applicant surrendered the land, to his father to sell. The same was during his grandfather's lifetime without any objection from anyone.

The applicant did not provide any documentary proof as to the ownership of the land. At the age of nine years, the applicant lacked the capacity to own land. He tendered no evidence that the deceased held the land Nyeri/Kiganjo/20 in trust for him. Furthermore, the applicant has not shown any relationship or correlation between LR. No. Ruguru/Gachika/667 and LR No. Nyeri/Kiganjo/20 and LR No. Nyeri/Kiganjo/8343/21. There was no evidence to prove that the proceeds of LR. No. Ruguru/Gachika/667 were used by the deceased to buy LR Nyeri/Kiganjo/20 and 21. Even assuming the said proceeds were used as the petitioner claims, it was in order because the deceased was the owner of the land. It is my considered view that LR No. Nyeri/Kiganjo/20 and LR No. Nyeri/Kiganjo 21 are assets of the deceased and that the petitioner cannot lay any interest on any of the assets. The fact that he has lived on LR No. Nyeri/Kiganjo/20 for many years and raised his children there does not place him at an advantage of solely inheriting the said land.

38. Furthermore, looking at the mode of distribution by the applicant, the 6th and 7th protestor, it seems to have alienated the female children of the deceased. The applicant has submitted that the female children are all married into wealthy families and as such should not inherit from their mother's estate. It is trite law that both the male and female children of the deceased are entitled to equal shares of the deceased's estate. Section 38 of the Law of Succession Act enshrines the principle of equal distribution of the net intestate estate to the surviving children of the deceased irrespective of gender or marital status.

39. The Court of Appeal in Peter Karumbi Keingati & 4 Others v Dr. Ann Nyokabi Gotha & 4 Others Nairobi Civil Appeal No. 235 of 2014 [2015]eKLR held:-

“ Article 27 of the Constitution guarantees for the equality of all before the law and the right to equal protection and the benefit of the law. The Article further proscribes discrimination on grounds including race, sex and marital status. These Articles (27 & 45(3)- parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and dissolution of the marriage) bind the court when applying section 35 of the Law of Succession Act to ensure that all beneficiaries are treated equally though that may not mean, for purposes of distribution of an estate, a surgical precision in sharing of the assets of the estate.”

40. Even before the promulgation of the Constitution in 2010, Makhandia J (as he then was) in Re Estate of Solomon Ngatia Kariuki (Deceased) [2008] eKLR made a very strong statement on the issue of discrimination against daughters generally in succession matters and he said:-

“ The Law of Succession Act does not discriminate between the female and male children or married or unmarried daughters of the deceased person when it comes to the distribution of his estate. All children of the deceased are entitled to state a claim to the deceased's estate. In seeking to disinherit the protestor under the guise that the protestor was married, her



father, brothers and sisters were purportedly invoking a facet of an old Kikuyu customary law. Like most other customary laws in this country, they are always biased against women and indeed, they tend to bar married daughters from inheriting their father's estate. The justification for this rather archaic and primitive customary law demand appears to be that such married daughters should forego their father's inheritance because they are likely to enjoy inheritance of their husband's side of the family."

41. It is my considered view that the petitioner and the 7th protestors modes of distribution are discriminatory and contrary to the provisions of *the Constitution* of Kenya, 2010 as well as those of the succession Act and should not be considered in distribution of the deceased estate.
42. At this juncture, it is my considered view that the assets in form of land available for distribution in the deceased's estate are as follows:-
 - a. LR No. Nyeri/Kiganjo/8152/20
 - b. LR No. Nyeri/Kiganjo/8343/21

The 1st, 5th Protestors

43. The 1st-5th and the 6th protestors propose that the estate be distributed equally taking into consideration that since the 6th protestor solely benefited from the loan. As such, his share ought to be reduced to cover the benefit he enjoyed from the estate. The protestors case was that a loan was paid on and security discharged on 31/7/2009. Further that the said loan was settled with proceeds from the interested party which is not denied by any of the parties. An agreement was entered with some of the beneficiaries for sale of 10 acres to save the estate assets from being auctioned by the bank. The Interested party gave a detailed schedule of the payments of funds amounting to 8,915,000/- being part of the purchase price for the portion of land he was buying. The assets of the deceased which were charged to Co-operative and Barclays Bank were saved from the auction bell by the funds paid by the interested party. The beneficiaries did not deny that the said payments were made into the then administrator's account Dan Kamunya Waihenya. There is evidence on record that at the time L.R No. Nyeri/Kiganjo/8152/20 was advertised for sale on 27th August 2009, the outstanding loan was Kshs.16,502,533/-. The said property was discharged upon clearance of the outstanding of Kshs.533,095.75/- on LR No. Nyeri/Kiganjo/8342/21 which was paid and the property discharged on 25th January 2010. That notwithstanding there is a letter by the 7th protestor dated 20th May 2013, which supports the fact that the interested party paid a sum of Kshs.7,125,000/- towards the agreed purchase price of the sum of Kshs.12 million.
44. From the evidence on record, majority of the beneficiaries are in agreement that the Interested party has a beneficial interest in ten (10) acres out of L.R No. Nyeri/Kiganjo/8343/21. The Interested party deposes in his affidavit that he was invited to the Naivasha meeting by the 6th protestor though he is opposing that he be given the portion of the estate he bought through the beneficiaries. The Interested Party is indeed a creditor to the estate in that he was helping the beneficiaries on their request to clear outstanding loans which were liabilities of the estate of the deceased who was the majority shareholder of the borrower company namely Waihenya Chemist. The deceased held 98% of the 500 shares allotted at that time. It was the then administrator of the estate and majority of the beneficiaries who approached the Interested party to bail them out of the impending sale of the assets by public auction. The petitioner has singled himself out as having not attended the meeting at Naivasha that made the resolution. The protestor who was one of the Directors who borrowed the loan is opposed to the Interested Party getting the 10 acres.



45. The liability of the estate of a deceased person is a burden to all the beneficiaries because one way or other, they would have to lose out on the assets if they do not take measures to save the securities held by the bank. The securities were eventually discharged upon payment of the funds by the interested party. The applicant/petitioner and the 6th respondent also benefited from the funds paid by the Interested party in that there are assets in the estate for all the beneficiaries to inherit.
46. In my considered view, the mode of distribution by the 1st-5th protestor is fair compared to those of other beneficiaries. In my view, the Interested party has made a case for a beneficial interest in a part of the estate of the deceased.
47. As for the 6th protestor his liability arises from the loans cleared on behalf of Waihenya Chemists Company Limited where he was a shareholder. It is imperative that the quantity and value of shares of the deceased and those of the 6th protestor be determined. The 6th protestor according to the documents annexed by him that were not disputed owned ten shares while the deceased owned 490 shares. In effect, the 6th protestor was a minority shareholder in the company. The loan outstanding at the time the interested party was called to rescue the deceased assets was Kshs.16,502,533/- with the interested party having paid Kshs.8,900,000/- which was no doubt used to clear the loan, it is not the interest of this court to dig out as to where the amount for clearing the balance of the loan. None of the beneficiaries tendered any evidence to the effect that he/she paid any money to clear the balance. Surprisingly, none of the beneficiaries claimed the shares of the deceased in the company. There was no information as to whether the business is still in operation. As such, the court will still include the 490 shares as an asset of the estate and leave other details to be sorted out by the beneficiaries with the assistance of the surviving director.
48. The figure of Kshs.8,900,000/- that was used to clear the outstanding loan ought to be shared by the estate and the 6th protestor at the rate of their liability based on the shares held by each of them. As for the deceased, she was the majority shareholder with 490 shares being 98% while the 6th protestor held 2% of the shares. In my view, the shares owned by the 6th protestor amount to a negligible figure which does not make much sense to be a basis of reducing his share in the estate as proposed by the 1st-5th protestor. It is my considered opinion that the share of the 6th protestor in the estate ought to be equal to those of other beneficiaries.
49. The court relies on section 38 of the *Succession Act* and will distribute the estate in equal shares among the eight (8) beneficiaries in regard to the identified assets. It provides:-
- Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of section 41 and 42, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children.
50. The assets listed below of the deceased shall be distributed in equal shares to the eight beneficiaries listed below.
- a. LR Nyeri/Kiganjo/8343/20
 - b. LR Nyeri/Kiganjo/8152/21
 - c. 490 shares Waihenya Chemist Limited
- The beneficiaries have been identified as follows.
- a. Karen Wanjiru Njoroge - Daughter
 - b. Rachel Gathoni Gitau - Daughter



- c. Tera Waigwa Waihenya - Son
 - d. Dan Kamunya Waihenya - Son (deceased)
 - e. Mary Wangari Karuoro - Daughter
 - f. Peter Maina Waihenya - Son
 - g. Caroline Wacheke Mbaki - Daughter
 - h. Margaret Gachambi Waweru - Daughter
51. The share of Dan Kamunya Waihenya will be registered in the name of his son Willis Kamunya Waihenya to hold in trust for himself and the other beneficiaries of the estate of his deceased father. Alternatively, details of the beneficiaries may be provided to court in form of an affidavit by the Administrator to be filed within 20 days.
52. On the proposal for one acre or 1.2 acres by the applicant and the 1st -5th protestors, the court leaves that for the family to sort out.
53. Certificate of confirmation to issue.
54. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT NYERI THIS 25TH DAY OF MAY, 2023.

F. MUCHEMI

JUDGE

Ruling delivered through video link this 25th day of May 2023

