



REPUBLIC OF KENYA



**KENYA LAW**  
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**In Re Estate of Kibet Sang (Deceased) (Probate & Administration  
105 of 2010) [2022] KEHC 12646 (KLR) (28 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 12646 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
PROBATE & ADMINISTRATION 105 OF 2010**

**RN NYAKUNDI, J**

**JULY 28, 2022**

**IN THE MATTER OF THE ESTATE OF THE LATE KIBET SANG (DECEASED)**

**BETWEEN**

**PAULINE J KIBET & 7 OTHERS ..... INTENDED OBJECTOR**

**AND**

**MARY C KOSSOM & 4 OTHERS ..... PETITIONER**

**JUDGMENT**

1. The genesis of the matter before this court is an objection by the objectors seeking to revoke the grant dated October 23, 2013. They protested that the grant herein was issued to the petitioners on account of false statements, concealment of material facts and without involvement and/or consent of the objectors.
2. There were several meetings and the main objective was the settlement of the issue of distribution. After various meetings and the referral to mediation, there were partial settlements recorded to distribute the property that had been purchased by purchasers for value. As per the settlement dated March 12, 2020, there was distribution of the estate to those who had purchased portions of land from the deceased.
3. The present objectors approached this court seeking to be allocated part of the estate as they were beneficiaries and had not received a portion of the estate. they were children of Pauline Sang from the house.
4. The crux therefore, of this objection is that they seek to have part of the estate distributed to them as beneficiaries.

**Objector's Case**

5. It is the objector's case that there have been several meetings including mediation and the parties agreed to have the following properties distributed as part of the estate; Plateau Block 2 (UG) 91 – 6.40 Ha



- Elizabeth Sang Plateau Block 2(UG) 84 – 17.4 acres – Julius Kibet Plateau Block 2(UG) 85 – 6.757 Ha – Julius Kibet
6. That there were beneficiaries who insisted that the properties were in their names and that they either bought or got gifted by the deceased; Kaptagat/Lotonyok Block 3 (Ngelel-Tarit)/33 – Emmanuel Kibet, Center plots at Duka Moja – Pauline Kibet. That from the testimonies from the witnesses it came out clearly that neither Emmanuel Kemei nor his mother Pauline Kibet produced any agreement or mode of payment for the properties. Julius Kibet and Elizabeth Sang conceded in the family meetings and testimonies in court that they were holding the properties in trust. They urged the court distribute the properties as per the mode of distribution.
  7. The third wife Elizabeth Sang testified that the unregistered Kapsoya plot was allocated to her by the family but the same happened after the demise of the deceased registered owner. Not all the beneficiaries consented to the allocation and the same amounted to intermeddling. The same should revert to the estate.
  8. According to the objectors, the plot at Duka Moja was already in the name of the second wife and was allocated and registered after the death of the deceased owner and the same amounts to intermeddling. Concerning the other plots in Naiberi, Duka Moja and Lamaon farm the objector proposed that the same be disposed of and proceeds to be shared equally among all beneficiaries.
  9. With regards to Kaptagat/Lotonyok Block 3 (Ngelel-Tarit)/33 the same is registered in the name of Emmanuel Kemei but throughout the meetings and mediation and testimony it came out that he could not explain how he purchased the property. further, he did not protest to it being part of the estate when it was included in P&A5.
  10. The objectors cited section 40 of the [Law of Succession Act](#) and urged the court that all the beneficiaries including the widows be treated as a unit. Further, they submitted that despite the petitioners agreeing that all the beneficiaries including the widows be allocated part of the estate they have not specified the size to be allocated to the individuals in the household. They would rather the court address this issue at the stage of judgment.
  11. The objectors referred to reasons given in the objector’s witness statement dated August 19, 2020 and details on specific distribution in the further further statement dated November 11, 2020. In paragraph 5 of the statement the objectors point out where each of the matrimonial household reside and proposes they are not disturbed fir harmony as hereunder; Household A – Kaptagat/Kaptagat Block 1 (Losirwa) 116 Household B – Kaptagat/Lotonyok Block 3 (Ngelel – Tarit) 33 Household C – Plateau A, Comprising Plateau/Plateau Block 2 (UG)/60,61,62,88,89,90,91 and 92 They propose that the sons from the three households apart from William Kibet be allocated land where they reside and use the land the unoccupied parcels are even if ploughed to be given to the daughters from all houses such as Koilel (Kapnori) Farm, Lamaon Farm No. 54 and Lamaon Farm No 1. The machinery to remain in use on rotational basis as agreed at family level. The objectors propose in paragraph 6 and 7 of their witness statement dated August 19, 2020 on how to solve the issue of acquiring shares where there is disparity in the number of units per household, the residential acreage vis a vis the acreage on an unoccupied parcel of land.
  12. They urged the court to find that the only reasonable mode of distribution is that presented by the objectors and more importantly all the witnesses across the board agreed on this mode of distribution.
  13. It is not in dispute that the objectors are beneficiaries of the estate. it is clear they are daughters in the second house, their mother is Pauline Kibet Sang and their brother is Emmanuel Kemei.



14. The parties agreed that the following properties were what was to be divided among the beneficiaries;Kaptagat/Kaptagat Block 1 (Losirwa) 116.Kaptagat/Lotonyok Block 3 (Ngelel – Tarit) 33.Plateau A, comprising Plateau/Plateau Block 2 (UG)/60, 61, 62, 84, 85, 88, 89, 90,9 1 and 92.Lamaon plot No 1 Farm No 54.
15. The petitioner’s witness statement listed the deceased’s assets as at the time of his death as aforementioned. They also included assets which were subject to the mediation settlement that was adopted as a judgment of the court adopted on March 12, 2020.
16. It was the objectors’ contention that the court should disregard the need for valuation as all the parcels of land are within Uasin Gishu and used for agricultural purposes. Further, that all the three households are using the parcels of land for residential and agricultural purposes save for Emmanuel Kemei’s. That none of the parties have insisted that equitable distribution will not be achieved without valuation. They urged the court to find that the mode of distribution proposed is equitable.

### **Respondent’s Case**

17. The respondents’ case is that the mode of distribution initially proposed by the administrators herein was not unfair neither had it locked out any beneficiaries. The affidavits in support of the summons for confirmation sworn by the administrators together with the replies to the amended replies to summons for revocation clearly lists the objectors as beneficiaries from the 2<sup>nd</sup> house which had been allocated a share of 130.10 acres. The same was to be shared amongst the beneficiaries in that household. It is the objectors’ fear that they are unlikely to get anything from the share that had been allocated to their household for the reasons given in their evidence and as such they prefer the property be shared equally.
18. The respondents submit that the mode of distribution proposed is problematic because;By equal share does it mean equal in size (acreage) or the value of the land? Given that some of the properties are prime properties with very high value while others are of very low value.No valuation report has been filed in court to enable the court determine the value of the property in question in the event that they may want to consider distribution on equal share in terms of value.
19. The respondents submitted that the land registered in the names of the beneficiaries be returned to the estate as they were held in trust. They cited sections 107 and 108 of the *Evidence Act* and section 3(3) of the *Law of Contract Act* and submitted that the claim by Emmanuel Kemei that he purchased the land has no basis for the reasons that there is no proof of him having purchased the land. further, that the initial mode of distribution proposed by the administrators lists the said property among the properties to be distributed. The said claim is a scheme by the said Emmanuel Kemei being supported by the 1<sup>st</sup> petitioner to get a bigger share of the deceased estate than the other beneficiaries.
20. The respondent submitted that the deceased was a polygamous man and cited section 40 of the *Law of Succession Act* in support of their submission that in distributing the estate of the deceased in a polygamous family the law is clear that the estate of the intestate should be distributed according to the number of children in each house but adding any wife surviving the deceased to constitute a family/ household unit. They also cited the cases of *Rono v Rono* Civil Appeal No 66 of 2002, *In the Matter of the estate of Benson Ndirangu Mathenge (deceased)* Nakuru HCSC No 231 of 1998, *In the matter of the estate of Nelson Kimotho Mbithi (deceased)* HCSC 169 of 2000 in support of this submission.
21. They asked that the court consider and adopt the petitioner’s initial mode of distribution and proceed to distribute the estate according to each household with a further order that beneficiaries in each household get an equal share.



22. I however note that in her affidavit in response to the notice of motion dated Pauline Sang acknowledged that the property was left for her to use and hold in trust. She contended that her son Emmanuel was her farm manager who helped her with the management of the properties.
23. From the facts of the case, it is emerging that the objectors have not received a share of the estate despite being beneficiaries. I take the admission of Pauline Sang, their mother, that she holds part of the estate in trust for her daughters; Grace Kibet, Rael Kibet, Christine Kibet and Rose Sang. Whereas other beneficiaries have received their share of the estate, the beneficiaries of the second house, especially the daughters.
24. Emmanuel Kemei was unable to prove that he purchased the property from the deceased. However, to was for those questioning the validity of his title to prove the same. He was of the position, however, that the properties be distributed equally. Given that the objectors did not get a share of the estate, I find that their shares were held in trust by their mother and their brother.
25. Despite holding the position that she will give them a share of the estate, she has not done so which is quite unfortunate. The basis of her reluctance to share the property, from her testimony and the pleadings, emerges to be that they are married and therefore do not need the property.

## **Analysis And Determination**

### **Cluster Of Issues As Conceptualized From The Pleadings**

26. What properties form the estate
27. How the properties should be distributed
28. Taking into account the evidence on record it is crystal clear that the doctrine of plural marriage is the one applicable in the distribution of the intestate estate of the deceased. This doctrine was first espoused by William Clayton in the *Doctrine and Covenants of the Church of Jesus Christ of Latter Days Saints* 132-61- 62-(1876) as follows:

“And again, as pertaining to the law of the priesthood-if any man espouse a virgin, and desire to espouse another, and the first give her consent, and if he espouse the second . . . he is justified; he cannot commit adultery for they are given unto him... and to no one else. And if he have ten virgins given unto him by this law, he cannot commit adultery, for they belong to him, and are given unto him; therefore he is justified.”

29. Based on the foregoing the potentially complex structure of polygamous marriages one finds the [Law of Succession Act](#) designed under section 40 to govern polygamist decedents’ estates to be rather exotic. The purpose for and the manner in which intestate inheritance rights accrue in section 35, 36, 37, 38 & 40 of the [Act](#) appear at a glance to be precise but the many decisions from the superior courts tend to considerably depreciate their fairness on distribution of the estate, hence the avalanche of litigations. However, not every inconsistency will affect the letter and spirit under section 40 of the [Act](#). In our traditional society the proportionality point made by the court in *Cain Heirs v Young* 1 Utah 361(1876) has particular cogency thus

“The homestead, occupied by the wife, or any portion of the family of the deceased at the time of his death, shall in all cases be held free to the use of the wife and family of the deceased, and shall not be liable to any claim or claims against said estate .If there be other property remaining after the liabilities of the estate are liquidated, then it shall, in the absence of other arrangements by will, descend in equal shares to his children or their heirs; one share to such



heirs through the mother of such children, if she shall survive him, during her natural life, or during her widowhood; or if he has had more than one wife, who either died or survived in lawful wedlock, it shall be equally divided between the living and the heirs of those who are dead, such heirs taken by right of representation.”

30. In light of this view the evidence as gleaned raises serious consideration as to the point of departure between the petitioners and the objectors on distribution of the estate. Undoubtedly, each of the claimants appear to submit in the whole or in part or as the case may be on distribution not nuanced on the requirements of the statutory provisions which strictly provides a protection on inheritance and conveying a benefit to the heirs.

### **What Properties Form Part Of The Estate Of The Deceased**

31. Free property of the deceased as defined under section 3 of the *Law of Succession Act* to my interpretation is a vague term having as many meanings and interpretations. Nevertheless, from the emerging jurisprudence it includes land, goods, money, insurance policies, bank accounts, home furniture, pension fund, livestock, stocks and shares etc. There are several ways in which the succession *Act* recognizes the family relationship under section 29(a) & (b) as giving rise to inheritance of certain property rights to the heirs. As a rule of transfer of property of the deceased to the beneficiaries there is usually no contribution. Some of the questions which trouble the courts on the legal rights of inheritance in our system include:
- i. What minimum amount or proportion of the estate should go, as of right, to the survivor,
  - ii. Whether a spouse should be able to waive a right of inheritance,
  - iii. Whether, and if so, how benefits received from the deceased during his life should be taken into account,
  - iv. How to deal with dispositions made by the deceased with the intention of defeating rights of inheritance, the relationship between rights of inheritance and the intestacy rules,
  - v. Whether children should enjoy rights of inheritance.
  - vi. Legal rights of inheritance on death plus support rights during and after marriage.
  - vii. Whether the wife who has continued to live in a protected statutory tenancy should be denied a benefit of occupation upon the demise of her husband.
  - viii. What is the effect of remarriage upon the probate court establishing the estate of the deceased and its subsequent distribution.
  - ix. How should the financial needs of the child or the children under the broad spectrum of the welfare and the best interests of the child under section 4 of the Children Act be proportionally and fairly be provided for before the certificate of confirmed grant being issued by the court.
  - x. Whether periodical payments for a surviving spouse or children to meet their basic survival rights should automatically cease upon the demise of the deceased.
32. Before distributing the estate, the court must establish which properties form part of the estate. given that the beneficiaries are from Household B, the properties that are held by Pauline Sang and Emmanuel Kemei are listed as follows;
- A. Kaptagat/Kaptagat Bl 1 (Losirwa)/116 .....80.75 acres



- B. Kaptagat/Lotonyok Bl 3 (Ngelel-Tarit)/33...75.3 acres
- C. Koilel 'Kapnori) Farm .....28.4 acres
- D. Lamaon Farm No 54.....100 acres
- E. Plateau/platea Bl 2 (UG)/60.....1.333ha.
- F. Plateau/Plateau Bl 2 (UG)/61.....4.486ha.
- G. Plateau/Plateau Bl 2 (UG)/62.....2.735ha.
- H. Plateau/Plateau Bl 2 (UG)/84.....17.4acres
- I. Plateau/Plateau Bl 2 (UG)/85.....6.757ha.
- J. Plateau/Plateau Bl 2 (UG)/88.....8.994ha.
- K. Plateau/Plateau Bl 2 (UG)/89.....7.539ha.
- L. Plateau/Plateau Bl 2 (UG)/90.....2.300ha.
- M. Plateau/Plateau Bl 2 (UG)/91.....6.40ha.
- N. Plateau/Plateau Bl 2 (UG)/92.....8.448ha.
- O. Lamaon Farm No 1.....13.7 Acres
- P. Kapsoya plot ("50x100")
- Q. Naiberi plot ("50x100")
- R. Naiberi plot ("50x100")
- S. Naiberi plot ("50x100")
- T. Duka Moja plot ("50x100")
- U. Duka Moja plot ("50x100")
- V. Duka Moja plot ("50x100")
- W. Lamaon Farm plot ("50x100")
- X. Lamaon Farm plot ("50x100")
- Y. Lamaon Farm plot ("50x100")
- Z. Kaptuktuk plot ("50x100")

AA. Equity Bank A/C No xxxxx (See source affidavit in support of the petition filed in court on May 7, 2010.)

33. There is also a contention that the following properties were transferred to Elizabeth Sang and Julius Kibet and held in trust as per the family meetings, mediation and testimonies; Plateau Block 2 (UG) 91 – 6.40Ha – Elizabeth Sang Plateau Block 2(UG) 84 – 17.4 acres – Julius Kibet Plateau Block 2(UG) 85 – 6.757 Ha – Julius Kibet



34. There are two properties that the parties disagreed as to whether they were held in trust or purchased and gifted to the parties in whose names they were; Kaptagat/Lotonyok Block 3 (Ngelel – Tarit) 33 – Emmanuel Kemei Center plots at Duka Moja – Pauline Kibet
35. It is my view that the assets available for distribution are those that are listed in the affidavit by the petitioners dated May 7, 2010. Some have official land search certificates that are annexed to the affidavit in support of the petition whereas the rest fall within the unregistered estate with beneficial interests attributable to the deceased. The following are legally recognized with registered interest in the name of the deceased; Kaptagat/Kaptagat Block 1 (Losirwa) 116 – 32.30ha Plateau/Plateau Block 2 (UG)/88 – 8.99ha Plateau/Plateau Block 2 (UG)/89 – 7.539ha
36. I further take into account of Pauline Sang’s admission that the property she held is in trust of intestate estate. With regards to the claims on properties that were transferred by the deceased before his death, this court has jurisdiction in view of the admitted facts by Elizabeth and Pauline Sang. Their validity of title is not therefore impeached for reason of their conveyance by the deceased during his lifetime. The property of the deceased seems to have been vested in their capacities as spouses not for purposes of a gift but to assist in creating wealth of the surviving estate relating to commercial activities or otherwise. The doctrine of good faith and fair dealing has been demonstrated by the aforesaid beneficiaries on how they came to obtain proprietary rights to those titles.
37. Various aspects arose during the ongoing conversations amongst family members on the model of distribution of the estate best suited to meet the specific circumstances and individual needs of the heirs. At the previous meeting the following properties Kaptagat/Kaptagat Block 1 (Losirwa) 116 – 32.30ha, Plateau/Plateau Block 2 (UG)/88 – 8.99ha, Plateau/Plateau Block 2 (UG)/89 – 7.539ha And Kaptagat/Kaptagat Block 1 (Losirwa) 116 – 32.30HA were identified as being part of the intestate estate. The subject of the same inherently applying the family dynamics made an entry to distribute Kaptagat/Kaptagat Block 1 (Losirwa) 116 – 32.30HA by consensus though the purpose of it as a whole was never given effect by recording a consenting court. There is a tremendous output noticeable from the discussions by the family members but invariably the critical elements on distribution remained in the realm of brain storming without some calculable formulae to arrive at a settlement of the described estate. I also find that Emmanuel Kemei was holding Kaptagat/Lotonyok Block 3 (Ngelel – Tarit) 33 in trust and this shall be part of the estate distributed to the objectors. I however, will take into consideration that the parties already reside on parts of the properties claimed to be part of the estate.

### **How the properties should be distributed**

38. In Kenya, children of the marriage union and spouses have legal rights to inherit the deceased property of their parents but neither they nor the surviving spouse may apply for family provision. The only paradox being that while a surviving spouse would frequently have played a part in building up the family assets, it is much less likely the children would have done so. Further when any of their parents die the first majority would be self-supporting and independent of their parents. What our legal system therefore does is not to distinguish between the minors, the independent child, the dependent child, the single or married daughters in a considerable degree of precision required in the statutory dictates on equal distribution of the intestate estate. Giving a purposeful interpretation under the Law of Succession Act more specifically section 40 which is applicable to the instant petition I take the view that various models should be incorporated in sharing out the intestate estate survived of the deceased. First, is the model on fixed proportion. In this regulatory framework legal rights which accrue from the deceased estate are to be calculated as a fixed proportion of the heirs entitlement share which could be increased or decreased dependant on the size of the estate. The inevitable inference is that whatever the fixed proportion ought to take into account would be that estate of the deceased which at one time or



another and for compelling circumstances includes a sectoral right allocated to the heirs to construct their respective homes. Of course customary law in general incorporates the doctrine of legitimate expectation that various conditions being constant adult sons in readiness to start a family must be shown where to establish a home. This procedural and substantive legitimate expectation involves the head of the family and in that land allotment the criterion of inheritance is never the condition precedent.

39. In the current matter the deceased elected to be polygamous and as reduced from the record he was blessed with both sons and daughters. It is evident that the scope of distribution has to cover the children from each house and their respective spouses. The status of the doctrine of legitimate expectations in a broader range requires that the surviving spouses legal rights over their matrimonial homes be secured especially those in occupation during the lifetime of the deceased. In essence the spouses will have a right to their homes for their life in addition to the life interests. However, where already there was no matrimonial home it is necessary to make provisions for it in the distribution to avoid the effect of discrimination under Article 27 of the Constitution between spouses. As it was averred in the primary affidavit on the inventory of assets owned by the deceased at the date of his death one method of distributing his estate is to take into account of all that property actually stated in the unchallenged affidavit evidence of May 7, 2010. It is reinforced by the fact that in Kenya list of certain categories of properties so ascertained by the petitioners may be in the process of adjudication, county government land, trust land whose transactional process to obtain title are still ongoing. Those kind of properties in my view ought not to be excluded for reason of nonexistence of traditional legal instruments of allotment and title as defined in law. There is rebuttable presumption that all properties listed by the petitioners were owed by the deceased at death and were derived by him during his lifetime. As such the court takes judicial notice of the difficulties experienced by the citizens to acquire titles to firm up their legal interests to land. It is therefore impermissible for a probate court to pitch limited interest against any positively identified property of the deceased by the administrators.
40. The deceased was polygamous and died intestate. Section 40 of the Law of Succession Act provides;
- (1) Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.
  - (2) The distribution of the personal and household effects and the residue of the net intestate estate within each house shall then be in accordance with the rules set out in sections 35 to 38.
41. In Eliseus Mburu M'Thara v Harriet Ciambaka & another [2012] eKLR the court held as follows:
- “The Law of Succession Act does not discriminate between gender in matters of succession or inheritance. Under the Law of Succession Act and indeed under the Constitution a child is a child and every person has equal rights under the law irrespective of gender. The Law of Succession Act does not discriminate between married or unmarried daughters but gives them equal rights to inheritance as the other children (sons) of a deceased person.”
42. The deceased had 23 children and 3 wives, one of whom is deceased therefore resulting in 25 dependants. The 1<sup>st</sup> house has 11 units, the 2<sup>nd</sup> house has 8 and the 3<sup>rd</sup> has 6. In view of the discourse and salient features with regard to distribution on the basic Law of Succession Act I confront the distribution of the vested estate for the benefit of the beneficiaries factoring in the following model. From the perspective the ideal of equality expressed by the principles of rationality under Section 40 lays the heart of the issues raised by the objectors and petitioners in the respective affidavits filed in



court. The sum total of justice in this subject matter would be to give effect to the unit formula infused with a condition precedent of equality and equity. It will be difficult to reconcile every need and want of the beneficiaries to the estate in so far as the application of equity and equality which underpins the express provisions of section 40 of the Law of Succession Act. Based on the above, I am satisfied that the distribution be effected as follows:

- a. Kaptagat/Kaptagat Bl 1 (Losirwa)/116 .....80.75 Acres
- B. Kaptagat/Lotonyok Bl 3 (Ngelel-Tarit)/33...75.3 Acres
- C. Koilel 'kapnori) Farm .....28.4 Acres
- D. Lamaon Farm No. 54.....100 Acres
- E. Plateau/platea Bl 2 (UG)/60.....1.333ha.
- F. Plateau/Plateau Bl 2 (UG)/61.....4.486ha.
- G. Plateau/Plateau Bl 2 (UG)/62.....2.735ha.
- H. Plateau/Plateau Bl 2 (UG)/84.....17.4acres
- I. Plateau/Plateau Bl 2 (UG)/85.....6.757ha.
- J. Plateau/Plateau Bl 2 (UG)/88.....8.994ha.
- K. Plateau/Plateau Bl 2 (UG)/89.....7.539ha.
- L. Plateau/Plateau Bl 2 (UG)/90.....2.300ha.
- M. Plateau/Plateau Bl 2 (UG)/91.....6.40ha.
- N. Plateau/Plateau Bl 2 (UG)/92.....8.448ha.
- O. Lamaon Farm No. 1.....13.7 acres

43. In the interest of continuity, the surviving spouses do retain the portion of land in which the deceased had already established respective matrimonial homes as part of the life interest.

44. Section 37 of the Law of Succession Act addresses powers of spouse during life interest as follows:

“A surviving spouse entitled to a life interest under the provisions of section 35 or 36, with the consent of all co-trustees and all children of full age, or with the consent of the court, may, during the period of the life interest, sell any of the property subject to that interest if it is necessary for his own maintenance: Provided that, in the case of immovable property, the exercise of that power shall always be subject to the consent of the court.”

45. In addition, with the rest of the heirs with the intestate estate each of them forming the unit of the household be entitled to an equal share of the above estate in conjunction with their children as a unit of the whole. With respect to;

- a. Kapsoya plot ("50x100")
- B. Naiberi plot ("50x100")
- C. Naiberi plot ("50x100")
- D. Naiberi plot ("50x100")



- E. Duka Moja plot ("50x100")
- F. Duka Moja plot ("50x100")
- G. Duka Moja plot ("50x100")
- H. Lamaon Farm plot ("50x100")
- I. Lamaon Farm plot ("50x100")
- J. Lamaon Farm plot ("50x100")
- K. Kaptuktuk plot ("50x100")

46. I adopt a model giving effect to the 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> house to inherit equally;

1<sup>st</sup> house;

Kapsoya plot ("50x100")

Naiberi plot ("50x100")

Naiberi plot ("50x100")

2<sup>nd</sup> house;

Naiberi plot ("50x100")

Duka Moja plot ("50x100")

Duka Moja plot ("50x100")

3<sup>rd</sup> house;

Duka Moja plot ("50x100")

Lamaon Farm plot ("50x100")

Lamaon Farm plot ("50x100")

As for Lamaon Farm plot ("50x100") and Kaptuktuk Plot ("50x100") to be valued, sold and the proceed shared equally.

Money in Equity Bank A/C No xxxxx (to be shared equally)

47. The grant shall be drawn and confirmed in terms of this judgment subject to the estate being surveyed by a mutually acceptable surveyor who in turn will file the framework of distribution taking into account the letter and text of this decision. I make no orders as to costs.

**DATED, SIGNED AND DELIVERED AT ELDORET THIS 28<sup>TH</sup> DAY OF JULY, 2022.**

.....  
**R NYAKUNDI**

**JUDGE**

**In the presence of**

Mr Gemnet for the petitioners and h/b for Mr Omusundi & Mr Maathai

(mathaimainadv@gmail.com, kiglinah@gmail.com)

