



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

SUCCESSION CAUSE NO. 94 OF 2010

IN THE MATTER OF THE ESTATE OF ZEPHANIA ARONI ONYONI (DECEASED)

SAMWEL OKINYI ARONI 1ST PETITIONER

PHILEMON OMWEGA ARONI 2ND PETITIONER

JOSEPH ONYONI ARONI 3RD PETITIONER

VERSUS

SOSPETER OCHENGO ARONI OBJECTOR

RULING

1. On 23rd April 2020, this court directed the petitioners, who are the administrators of the deceased's estate, to agree on the mode of distribution of deceased's estate within 60 days failure to which the court would decide the matter. Since the administrators are unable to come to an agreement, it is now upon this court to determine how the estate will be distributed among the eligible beneficiaries of the deceased.

2. The deceased died intestate on 25th July 1997. The properties registered in the name of the deceased at the time of his demise were;

- 1) **LR. No. West Mugirango Scheme/Bosamaro East Plot No. 504;**
- 2) **LR. No. West Mugirango Scheme/Bosamaro West Plot No. 1053; and**
- 3) **Commercial Plot at Mosebeti Market Plot No. 20**

3. It is not in dispute that the deceased had four wives who are all deceased and the eligible beneficiaries of the estate are;

- 1) Samuel Okinyi Aroni
- 2) Philemon Omwega Aroni
- 3) Joseph Onyoni Aroni
- 4) Zephania Omwega Aroni
- 5) Pius Ongisa Aroni
- 6) David Ongisa Aroni
- 7) Philip Omoi Aroni
- 8) Thomas Obiri Aroni

- 9) Halday Orwaru Aroni
- 10) Peter Orwaru Aroni
- 11) Peter Omurwa Aroni
- 12) Benson Nyamongo Aroni
- 13) Janet Nyabeta Aroni (*alias* Zinet Nyabeta Aroni)
- 14) Naom Kemunto Aroni
- 15) Nancy Bikondo Aroni
- 16) Grace Bonareri Aroni; and
- 17) Sospeter Ochiengo Aroni

4. The above list of beneficiaries is a reproduction of the affidavit sworn in support of the petition for letters of administration intestate by the petitioners on 1st February 2010 and a consent order dated 11th March 2015 whereby Sospeter Ochiengo Aroni was included in the list of eligible beneficiaries.

5. There are two contesting proposals by the administrators. On the one hand the 1st petitioner proposes that LR. No. West Mugirango Scheme/Bosamaro East Plot No. 504 (“herein Plot No. 504”) be distributed according to the occupation of the deceased’s children on the ground. He also suggests that LR. No. West Mugirango Scheme/Bosamaro West Plot No. 1053 (herein “Plot No. 1053”) be distributed among the four houses and the Commercial Plot at Mosebeti Market Plot No. 20 (herein “Plot No. 20”) be sold and the proceeds be used to cater for the expenses of the administration of the estate and the remainder be distributed amongst the four houses.

6. The 2nd petitioner has come up with a precise formula in which each of the beneficiaries of the estate get 1.35 Hectares of Plot No. 504 and Plot No. 1053. He also proposes that Plot No. 20 be sold off to cater for the costs of the administration of the estate and the residue if any, be shared among the beneficiaries.

7. This court heard from surveyors who had visited the site and prepared their reports in support of the two contesting modes of distribution.

8. Atai Kingonia Oren (PW1) testified that he worked as a County Surveyor in Nakuru County and a consultant with Oratki Geosystems Limited. After highlighting his competencies, PW1 testified that he received instructions to establish the status of Plots No. 504 and 1053. He told the court that they had done a search and gone to the ground to compare the acreage. They then did the scheme plan which was approved by registered physical planners. PW1 testified that they had also done mutations for the land which were also approved. They then proceeded to the ground and subdivided the land equitably amongst 14 beneficiaries.

9. PW1 stated that Parcel No. 504 was 18.945 Ha and Parcel No. 1053 was 3.271 Ha bringing the total acreage of land to a total of 22.3167 Ha. He stated that after subtracting a portion for a road and a portion measuring 50 by 100 which had been sold to a purchaser, the acreage per share for each beneficiary came to 1.35 Ha. They then proceeded to demarcate the land with beacons. PW1 stated that they used the most accurate equipment in the exercise and had sought police assistance in completing the exercise.

10. During cross examination, PW1 stated that he had received instructions from the 2nd petitioner. He stated that he had found proposed demarcations on the ground and people living on the land. He testified that there had been resistance against their work but they got security to ensure no one attacked them. PW1 admitted that he was not aware of the court order asking the land registrar and surveyor of Nyamira to visit the land. On the division of Commercial plot at Mosobeti Market, PW1 referred to the explanation at page 5 of the report. He stated that they had approved the scheme plan and mutations and what they needed was consent for the subdivisions.

11. Charles Mwendwa Mutua, DW1, the County Registrar at Nyamira testified that he got orders requiring him to visit Plot No. 504 to establish the occupation of the land. He visited the land with the County Surveyor and the area chief, and the County Commissioner provided the security for the exercise. He stated that the estate comprised of 3 parcels but the order issued to them was with respect to one parcel of land. He prepared a report dated 2nd May 2019 which he produced as an exhibit.

12. During cross examination, DW1 testified that he was not aware of the orders issued on 9th October 2019 and admitted that what he did was not in accordance with those orders. He stated that they had acted in accordance with the orders served upon them which related to one parcel of land and they were to establish the status of utilization. He stated that not all the parties were present when they went to the ground although they had issued summons through the area chief.

13. Abuga Henry (DW2) the Surveyor in Nyamira County confirmed that he visited Plot No. 504 with the County Land Registrar and the County Commissioner. He stated that they were to establish how the land was occupied on the ground, do a sketch and submit it to court. He testified that after the meeting had been opened by the Assistant County Commissioner and the Land Registrar had read the court order, he proceeded to take measurements and developed a sketch which included the parties who were present and those who were absent.

14. He too was not aware of the orders issued on 9th October 2019. He stated that he had relied on the administrators, the Assistant County

Commission and the chief to guide the process. He also admitted that had not been informed of the other parcels of land and that he only worked on Parcel No. 504.

SUBMISSIONS

15. The parties' learned counsels filed written submissions in support of the contrasting proposals. Mr. Kerosi, for the 1st petitioner submitted that the deceased subdivided Plot No. 504 into four portions representing his four houses. He submitted that the children except the daughters who had established their own families elsewhere, lived in distinct portions of the estate in accordance with the dictates of the deceased before he died. He submitted that Plot No. 504 had since been sub-divided into smaller portions and the wives of the deceased had been buried in their respective portions. Some of the beneficiaries had since sold of their portions to third parties who had in turn sold off their portions. According to him, the 2nd and 3rd petitioners wanted to dismantle what the deceased had done and what had been prevailing on the ground since the 1970.

16. Counsel argued that the report dated 2nd May 2019 together with the sketch filed in court clearly showed that Plot No. 504 was demarcated and each beneficiary was living in separate portions on the ground. It was counsel's submissions that the deceased had subdivided Plot No. 504 himself and the land could not be subject to the provisions of **section 38** of the **Law of Succession Act**. In support of this argument, counsel referred to the case of *In the Matter of the Estate of M'muthamia Mwendwa (deceased) Succession Cause No. 560 of 2015* where the court held,

"I am inclined not to disrupt the social set up now obtaining within the estate of the deceased. To insist on the application of section 38 might lead to chaos ..."

17. This court was urged not to upset the status obtaining on the ground as that would lead to chaos, despondency and violence as each individual living on Plot no. 504 had either a sentimental attachment to the parcel of land by either burying a loved one, building or developing their portion which they may not want to part with.

18. Reference was made to **Article 159 (2) (c)** of the **Constitution** which provides that the court should promote alternative forms of dispute resolution and **Article 159 (2) (d)** of the **Constitution** which states that justice should be administered to all without undue regard to technicality. The court was also referred to **Article 11(1)** of the **Constitution** which provides that the constitution recognizes culture as the foundation of the nation. It was submitted that according to Gusii Customary Law, where a deceased person had demarcated and allocated his property, no other person was allowed to do otherwise. That the sons of the deceased could not undo what their deceased father had done and this court ought to distribute the deceased's estate as proposed by the 1st petitioner and confirmed by the report dated 2nd May 2019.

19. Conversely, the 2nd and 3rd petitioner's counsel Mr. Nyambati argued that since the widows were not alive, the estate ought to be distributed in line with the provisions of section 38 as read with section 41 and 42 of the Law of Succession Act. Counsel submitted that the 2nd and 3rd petitioners filed the proposed mode of distribution with the consent of the eligible beneficiaries affecting all the three properties left behind by the deceased but the 1st petitioner's proposal did not touch on all the properties of the deceased comprised in the estate.

20. Regarding the eligible beneficiaries of the estate, Counsel submitted that Makhandia J (as he then was) confirmed the grant based on the affidavits placed before the court identifying the eligible beneficiaries to the estate of the deceased. Nancy Aroni and Naomi Aroni had also sworn affidavits confirming that they had no interest in the estate. Therefore, the court should proceed to distribute the estate amongst the eligible beneficiaries as confirmed in the affidavits in support of the summons for confirmation.

21. It was submitted that apart from the children of the deceased, there was one purchaser who had bought a portion of the land from the deceased before his demise and he was thus a creditor under section 66 of the Law of Succession Act.

22. Counsel maintained that the 2nd and the 3rd petitioners had laid out how the estate ought to be distributed, taking into account the deceased's properties and all the eligible beneficiaries and the interests of the purchaser. They urged the court to reject the mode of distribution proposed through the report dated 2nd May 2019 which affected only one parcel of land.

ANALYSIS AND DETERMINATION

23. From the parties' arguments and depositions in support of their rival positions, the issues arising for determination are;

- 1) **Whether the deceased subdivided his land prior to his death;**
- 2) **Whether this court should be guided by Gusii Customary Law in the distribution of the estate of the deceased;**
- 3) **How should the property of the deceased be distributed among his beneficiaries?**

24. The 1st petitioner strongly asserted that prior to his demise, the deceased had subdivided his land into four portions representing his four houses. He argued that deceased had allocated most of his children their distinct parcels of land where they each of them carried on their activities within Plot No. 504 and Plot 1053.

25. In support of his position, the 1st petitioner relied on the report dated 2nd May 2019, which had been prepared by the County Land Registrar (DW1) and the County Surveyor (DW2). The report by DW1 and DW2 was with respect to Plot No. 504. In their report, the Land Registrar and the County Surveyor indicated that the deceased had sub-divided his land amongst his wives and children while he was alive

but other than the 1st house, he had not given them numbers to process Title Deeds.

26. Where the deceased bequeaths his property during his lifetime, he is said to have given a gift *inter vivos* to the donee. In **Re Estate of T**

27. **he Late Gideon Manthi Nzioka (Deceased) Succession Cause No. 122 of 2010 [2015] eKLR** Nyamweya J. defined gifts *inter vivos* as follows;

“For gifts *inter vivos*, the requirements of law are that the said gift may be granted by deed, an instrument in writing or by delivery, by way of a declaration of trust by the donor, or by way resulting trusts or the presumption of. **Gifts of land must be way of registered transfer.** or if the land is not registered it must be in writing or by a declaration of trust in writing. Gifts *inter vivos* must be completed for the same to be valid. In this regard it is not necessary for the donee to give express acceptance, and acceptance of a gift is presumed until or unless dissent or disclaimer is signified by the donee. See in this regard Halsburys Laws of England 4th Edition Volume 20(1) at paragraph 32 to 51.

28. The above finding was echoed by Musyoka J in **In re Estate of Chesimbili Sindani (Deceased) Succession Cause No. 421 of 2014 [2021] eKLR**. The learned Judge, upon considering among others the decisions of the courts in *In re Estate of Godana Songoro Guyo (Deceased)* [2020] eKLR (Nyakundi J), *William M’Arimu M’tuambae vs. Rosemary Karamuta for estate of George Gatimi* [2017] eKLR (Gikonyo J), *In re Estate of Monicah Wambui Nguthiru (Deceased)* [2020] eKLR (Ongeri J), *In re Estate of Osoro Motari (Deceased)* [2020] eKLR (Ougo J), *In re Estate of M’Rajji Kithiano (Deceased)* [2017] eKLR (Gikonyo J), *Evans Onguso & 2 others vs. Peter Mbuga & 4 others* [2020] eKLR (JM Mutungi J), *Margaret Mumbi Kihuto vs. Peter Ngure Kihuto & another* [2017] eKLR (Onyiego J), *In re Matabo Sabora (Deceased)* [2019] eKLR (Mrima J), *Naomi Wanjiru Njoroge & 2 others vs. Winston Benson Thiru* [2018] eKLR (Muigai J) and *In re Estate of Japhet M’tuamwari M’ikandi (Deceased)* [2019] eKLR (Gikonyo J) held;

31. *From the case law above, the principle that emerges is that any gift inter vivos should be backed by some memorandum in writing, and the gift would be complete once title to the subject property is transferred to the name of the beneficiary of the gift. Difficulties arise where transfer is not effected to the beneficiaries before the death of the deceased, in which case such property would remain the free property of the deceased, available for distribution at confirmation, the argument being that such gift was founded on a mere promise which the deceased did not carry through prior to his death. Where some preliminary steps were taken towards effectuating his promise, so that all what remained after the death of the deceased was mere registration of the property in the name of the beneficiary, it would be presumed that that the deceased intended to make a gift inter vivos. That would be the case where the deceased has complied with the Land Control Act, Cap 302, Laws of Kenya, where the land is subject to that law, by applying for consent to transfer the property from the name of the deceased to that of the beneficiary, the consent had been granted, and he had signed a transfer form to facilitate registration of the property in the name of the beneficiary. That would mean practically everything had been done to perfect or complete the gift were it not for the demise of the deceased. The mere fact of being shown a piece of land and given permission to occupy and use it, without more, is not adequate proof for a gift inter vivos. The deceased, as registered proprietor of the land in question, would have the right to licence a person to occupy the land and use it. A child who has been shown a piece of land to build on and to till, is not in the shoes of an owner, but a mere licensee. The death of the deceased would not upgrade the licence to ownership, if anything the death of the proprietor could mean that the license comes to an end, and the licensee continues to occupy and work the land at the mercy of the administrator.*

29. There was no signed transfer, consent or other memorandum in writing to demonstrate that the deceased had formally passed on his property to his heirs before he died in this case. Had the deceased intended to make lifetime gifts to his heirs, he would have done so and did in fact transfer Land Parcel No. West Mugirango/Bosamaro/1060 to the 1st house through the objector, Sospeter Ochengo Aroni. Consequently, I find that the deceased did not distribute his land and his property remained the free property, available for distribution to the beneficiaries.

30. The answer to the second issue on whether this court should be guided by Gusii Customary Law in the distribution of the estate of the deceased is found in **Section 2 (1)** of the Law of Succession Act (“the Act”) which provides;

2. (1) *Except as otherwise expressly provided in this Act or any other written law, the provisions of this Act shall constitute the law of Kenya in respect of, and shall have universal application to, all cases of intestate or testamentary succession to the estates of deceased persons dying after the commencement of this Act and to the administration of estates of those persons.*

31. The wording of the Act in the Section 2(1) above is categorical that the distribution of the estates of persons who die after the commencement of the Act are subject to the provisions of the Act. The deceased in this case died in July 1997 after commencement of the Act in July 1981 thus his estate is subject to the Law of Succession Act and not customary law.

32. Moreover, the estate of the deceased does not fall under the exceptions set out under **Section 32** and **33** of the Act which provide that the customary law applicable to the deceased’s community or tribe shall apply in the distribution of the agricultural land and crops thereon or livestock belonging to a deceased who died intestate in West Pokot, Wajir, Turkana, Garissa, Marsabit, Tana River, Samburu, Lamu, Isiolo, Kajiado, Mandera and Narok.

33. **Section 3(2)** of the **Judicature Act** also provides that African customary law is only applicable to the extent that it is not repugnant to justice and morality or inconsistent with any written law. In this case, the written law is clear that the succession to the estate of a deceased who died after the commencement of the Act, is subject to the Law of Succession Act. The second issue is therefore answered in the negative.

34. Given that the deceased was polygamous and died intestate, the relevant provision of the law is **Section 40** of the Act which states;

40 (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.

35. There are no surviving spouses in this case, hence **Section 38** of the **Act** is the applicable provision. **Section 38** states;

38. Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or shall be equally divided among the surviving children.

36. **Section 41** relates to property devolving upon child and is not relevant in present case as all the eligible beneficiaries of the estate are adults. **Section 42** provides that previous benefits given to a beneficiary ought to be taken into account in the distribution of the estate. The provision stipulates;

42. Where:

(a) an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or

(b) property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35, that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house.

37. The 1st petitioner argued that **Section 38** of the Act should not apply to the estate of the deceased because the deceased had sub- divided Plot No. 504 among his wives, who had also sub-divided their portions amongst their children. The 1st petitioner's counsel relied on the case of **In the Matter of the Estate of M'muthamia Mwendwa (deceased) Succession Cause No. 560 of 2015** in support of this argument. I will quote the preceding paragraph, to give context to the court's finding in the aforementioned case. The court held;

"22. In view of the foregoing, how should the estate be distributed? This court has already found that those entitled to the estate are the direct beneficiaries of the estate, one (1) son and four (4) daughters of the deceased. Under Section 38 of the Act the entitlement is equal.... The Petitioner's mode proposes that out of the 8.46 acres he takes 7.96 acres while the four (4) daughters of the deceased take half an acre. Such a proposal inconceivable. It must prick the conscience of any court of law or equity in the face of Article 27 of the Constitution and section 38 of the Act. To my mind, the Petitioner should count himself lucky that his sisters are only asking for 1 acre instead of what section 38 of the Act decrees.

23. In view of all the foregoing, I am inclined not to disrupt the social set up now obtaining within the estate of the deceased. To insist on the application of section 38 might lead to chaos as the daughters themselves are against it. I am satisfied that notwithstanding what I have held as regards the alleged dependants and the purported purchasers, I would adopt the proposal made by the protestors."

38. A reading of the above passage shows that the court was mindful of the applicability of Section 38 of the Act and did not entirely disregard the provision as argued by the 1st petitioner. The court however adopted the mode of distribution willingly proposed by the protestors in that case. As I have held above, the argument that the Act should not apply to this case because the deceased had sub- divided Plot No. 504 among his wives has no legal basis. However, where parties agree on a mode of distribution, the court will sanction the distribution as agreed by the parties, notwithstanding that the proposal departs from the law. In the case of **Justus Thiora Kiugu & 4 others v Joyce Nkatha Kiugu & another Civil Appeal No. 30 of 2014 [2015] eKLR** the Court of Appeal held;

We have revisited the foregoing provision because we urged the parties herein to reconcile and if they reach an agreement, we as a court would adopt their written consent to settle this matter. We did this because we appreciate that an estate of a deceased person who died intestate leaving one spouse and children like in this case of M'Ikiungu Mwirichia cannot legally be distributed in any other way other than the parties agreeing among themselves and filing a consent, or by the court following the provisions of Section 35 of the Law of Succession. In the event that parties agree and they record consent on the mode of distribution, the court has no choice but to adopt the consent and make it an order of the court. Short of a written consent on the mode of distribution, the court has no discretion but to distribute the estate of the deceased as per the provisions of Section 35 of the Law of Succession which makes provisions for an intestate who has left one surviving spouse and child or children.

39. The court however acknowledged that difficulties arose where the beneficiaries of an estate had settled on the property which was the subject of distribution. It held;

We did not see any valuation reports of the assets, secondly a random distribution is likely to misplace some members of the family who have settled and perhaps developed some assets that are distributed to others which would fuel more conflicts within a family.

The distribution of an estate such as this one is not an easy task; we note there was an order that the estate be valued, nonetheless we do not see any valuation report. The estate comprises of some developed assets, commercial assets, income generating assets and others not developed. It is obviously difficult for the court to distribute such an estate with mathematical precision as to the portions of shares to give to which beneficiary.

40. According to the evidence of PW1, DW1 and DW2, there are developments on Plot No. 504 where most of the deceased's beneficiaries have settled or even sold of their portions. I must point out that unless the deceased sold off a portion of his property during his lifetime, any

sale of immovable property before confirmation of grant amounts to intermeddling and is contrary to the provisions of **Section 55** and proviso **82 (ii)** which state as follows;

55. (1) *No grant of representation, whether or not limited in its terms, shall confer power to distribute any capital assets constituting a net estate, or to make any division of property, unless and until the grant has been confirmed as provided by section 71.*

82. *Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers*

Provided that

(ii) no immovable property shall be sold before confirmation of the grant;

41. That said, I note that on 1st November 2018, this court ordered the Assistant County Commissioner in charge of Bosamoro East and West locations together with the County Surveyor Nyamira County to proceed with all the administrators to subdivide the property amongst all beneficiaries and lodge a report in court within 60 days. Those orders were varied on 27th November 2018 to include the County Land Registrar in the exercise. In their report dated 2nd May 2019, the Land Registrar and the County Surveyor, noted that the beneficiaries were in occupation of Plot No. 504 as follows;

- 1) Samuel Okinyi Aroni - 1.78 Ha. and 0.70 Ha.
- 2) Philemon Omwega Aroni - 1.13 Ha.
- 3) Joseph Onyoni Aroni - 0.65 Ha. and 0.74 Ha.
- 4) Zephania Omwega Aroni -1.38 Ha. and 0.70 Ha.
- 5) Pius Ongisa Aroni - 0.92 Ha.
- 6) David Ongisa Aroni - 1.14 Ha.
- 7) Philip Omoi Aroni -1.13 Ha.
- 8) Thomas Obiri Aroni - 0.51 and 0.35 Ha.
- 9) Halday Orwaru Aroni - 1.65 Ha and 0.70 Ha
- 10) Peter Orwaru Aroni - 0.50 Ha and 0.41 Ha.
- 11) Peter Omurwa Aroni - 1.13 Ha.
- 12) Benson Nyamongo Aroni - 0.51Ha and 0.42 Ha.
- 13) Zinet Nyabeta Aroni (*alias* Janet Nyabeta Aroni) - 0.32 Ha.

42. Although the 2nd and 3rd petitioners' proposed mode of distribution seems more accurate and equitable, the report dated 2nd May 2019 indicates that none of the beneficiaries complained about the portions they occupied even though they were not equal. The report also indicated that the land was fully demarcated and each party was aware of their parcels on the ground. I will therefore adopt the mode proposed by the 1st petitioner with respect to Plot No. 504 which is favored by a majority of the deceased's beneficiaries.

43. I also note the 1st house, through the objector, Sospeter Ochiengo Aroni was given LR No. West Mugirango/Bosamoro East/1060 measuring approximately 10.20 Ha. by the deceased during his lifetime. Naom Kemunto Aroni and Nancy Bikondo Aroni who are listed as eligible beneficiaries of the estate swore affidavits stating that they were not interested in their share of the estate.

44. Taking into account all of the above and the occupation of the beneficiaries on Plot No. 504, this court issues the following final orders;

1) **LR. No. West Mugirango Scheme/Bosamoro East Plot No. 504** shall be distributed in terms of the County Surveyor's report dated 2nd May 2019 as follows;

- i. Samuel Okinyi Aroni - 1.78 Ha. and 0.70 Ha.
- ii. Philemon Omwega Aroni - 1.13 Ha.
- iii. Joseph Onyoni Aroni - 0.65 Ha. and 0.74 Ha.
- iv. Zephania Omwega Aroni -1.38 Ha. and 0.70 Ha.

- v. Pius Ongisa Aroni - 0.92 Ha.
- vi. David Ongisa Aroni - 1.14 Ha.
- vii. Philip Omoi Aroni -1.13 Ha.
- viii. Thomas Obiri Aroni -0.51 and 0.35 Ha.
- ix. Halday Orwaru Aroni - 1.65 Ha and 0.70 Ha
- x. Peter Orwaru Aroni - 0.50 Ha and 0.41 Ha.
- xi. Peter Omurwa Aroni - 1.13 Ha.
- xii. Benson Nyamongo Aroni - 0.51Ha and 0.42 Ha.
- xiii. Zinet Nyabeta Aroni (*alias* Janet Nyabeta Aroni)-0.32 Ha.

2) **LR. No. West Mugirango Scheme/Bosamaro West Plot No. 1053** shall be distributed as follows;

- i. Grace Bonareri Aroni – half ($\frac{1}{2}$)share
- ii. Zinet Nyabeta Aroni (*alias* Janet Nyabeta Aroni)- quarter ($\frac{1}{4}$) share
- iii. Sospeter Ochiengo Aroni - quarter ($\frac{1}{4}$) share

3) **Commercial Plot at Mosebeti Market Plot No. 20** shall be sold to cater for the expenses of the administration of the estate and the residue shall be distributed equally among the following beneficiaries;

- i. Philemon Omwega Aroni
- ii. Joseph Onyoni Aroni
- iii. Pius Ongisa Aroni
- iv. David Ongisa Aroni
- v. Philip Omoi Aroni
- vi. Thomas Obiri Aroni
- vii. Peter Orwaru Aroni
- viii. Peter Omurwa Aroni
- ix. Benson Nyamongo Aroni
- x. Zinet Nyabeta Aroni (*alias* Janet Nyabeta Aroni)
- xi. Grace Bonareri Aroni

45. This being a family matter the parties shall each bear their own costs.

Dated, Signed and Delivered at KISII this 27th day of September, 2021.

R.E. OUGO

JUDGE

In the presence of:

Mr. Kerosi For the 1st Petitioner

Mr. Nyambati For the 2nd and 3rd Petitioners

