



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIAMBU**

**SUCCESSION CAUSE NO. 104 OF 2017**

**IN THE ESTATE OF JONAH THUMBI KARIMI (DECEASED)**

**1. ESTHER KAGUNDA**

**2. MARY WAIRIMU**

**3. EUNICE WANJIKU MWORIA**

**4. GLADYS NYAMUHU MWORIA..... APPLICANTS**

**AND**

**1. GEORGE MBUTHIA THUMBI**

**2. PETER MUIGAI THUMBI**

**3. KAREN WANJIKU THUMBI..... RESPONDENTS**

**R U L I N G**

1. On 1<sup>st</sup> February 2018 the court (Ngugi J) ordered that two applications, dated 24<sup>th</sup> September 2013 (1<sup>ST</sup> application) and 10<sup>th</sup> January 2018 (second application) be heard simultaneously by way of written submissions. This court subsequently ordered that a subsequent application filed on 25/4/18 be heard after the disposal of the above applications.

2. The first of the applications above was filed on 24<sup>th</sup> September 2013 by Esther Njeri Kagunda and Mary Wairimu Kagunda as beneficiaries, by the fact of being widows to Daniel Karanja Thumbi and Samuel Kamakiru Thumbi respectively, both deceased sons of Jonah Thumbi Karimi the deceased in this cause. They sought preservatory orders in respect of land parcel **No. LR RUIRU TOWN/70** and the nullification of transfers of the suit property or other assets of the estate, in favour of some beneficiaries or third parties, to the exclusion of the applicants; that the Administrator herein be called to account for the income received in respect of the estate, as well as the revocation of the confirmed grant issued on 3<sup>rd</sup> October 1991.

3. The grounds on the face of the application which are fleshed out in the supporting affidavit are as follows:

- a) the Administrator **Eunice Wanjiru Thumbi** is guilty of acts of fraud.
- b) the Administrator has not proceeded diligently in carrying out her duties.

- c) the Administrator has intermeddled with the estate to the detriment of the Applicants.
- d) the Administrator has discriminated against some of the beneficiaries in particular, the Applicants and their children.
- e) the Administrator is suffering from debilitating illness that renders her incapable of carrying out her duties as Administrator.
- f) that the suit property, namely **LR RUIRU TOWN/70** had been illegally transferred to George Mbutia Thumbi, Peter Muigai Thumbi and Karen Wanjiku Mureithi who are the Administrator's children leaving out the Applicants.
- g) the Administrator has failed to render accounts in respect of the estate.

4. The Administrator, Eunice Wanjiru Thumbi responded through several affidavits, filed on 26/11/13, 13/1/14 and 12/6/14. All to the effect that the Applicants to the 1<sup>st</sup> application were widows of her two deceased sons, and herself the widow of Jonah Thumbi Karimi, appointed as an administrator in **Kiambu Succession Cause No. 57 of 1990**. She denied all the allegations of impropriety made against her by the Applicants. Although she admits to have experienced serious health challenges in 2010, she asserted that she was well enough and capable of carrying out her duties and was under the care of her three children.

5. She deponed further that the property **LR. RUIRU TOWN/70** did not form part of the estate of the deceased nor included in the grant confirmed in the succession cause before the lower court, as it was always registered in her name. That in 2013, out of parental love, she transferred the property to her three named children. That in accordance with the confirmed grant she had distributed the land parcel **LR KOMOTHAI/KIAMBURURU/89** to the Applicants and other beneficiaries and did not keep any portion of it for herself, and completed the administration of estate. She dismissed as a forgery the certificate of confirmation of grant with distribution schedule produced by the Applicants. She termed the lodging of the instant application 23 years since the confirmation of the grant as malicious and an afterthought only motivated by malice. To her, the application is a non-starter as no assets remain to be administered.

6. By a further affidavit filed on 22/5/14 one of the Applicants, Esther Njeri Kagunda has exhibited records in respect of the ownership of plot **LR. RUIRU TOWN/70** marked annexure **ENK 9**. It would seem that the Administrator passed on in August 2015 and a fresh wave of litigation commenced by way of applications.

7. The application filed on 11<sup>th</sup> January 2018 and dated 10<sup>th</sup> January 2018 is substantially similar to the application of 24<sup>th</sup> September, 2013. It is brought by Eunice Wanjiru Mwaria and Gladys Nyamuhu Mwaria who described themselves as grandchildren of the Administrator through the deceased daughter of Jonah Thumbi Karimi, one **Joyce Wambui Thumbi**. By their grounds and affidavits the applicants repeat much of the material contained in the first application, but additionally assert that, there were three assets comprising the estate of the deceased, namely;

- a) LR No. Komothai/Kiambururu/89
- b) LR No. Komothai/Kiambururu/T 161/18
- c) Ruiru Town Plot No. 70

8. They complain that the deceased Administrator distributed the estate among some beneficiaries but left out their mother Joyce Wambui Thumbi. That the beneficiaries who allegedly benefitted from the impugned distribution are named as follows:

- a) George Mbutia Thumbi – LR No. Komothai/Kiambururu/822 – subdivision of LR Komothai/Kiambururu/89.

- b) Peter Muigai Thumbi – a subdivision of parcel 89 above being LR Komothai/ Kiambururu 823.
- c) Esther Njeri Kagunda – LR No. Komothai/Kiambururu/824 subdivision of land parcel 89 in (a) above.
- d) Mary Wairimu Karanja – LR No. Komothai/Kambururu/825 being a subdivision of land parcel 89 in (a) above
- e) i. George Mbuthia Thumbi
  - i. Peter Mungai Thumbi Ruiru RUIRU Town/Plot 70 with a
  - ii. Karen Wanjiku Thumbi rental income of KShs.400,000 p.m.

9. These Applicants complain that the proceedings leading to the grant in respect of the deceased's estate were defective, misleading and fraudulent as the existence of their mother as a dependent/beneficiary of the estate was not disclosed. The two Applications are expressed to be brought under **Section 76** of the Law of Succession Act and Rules 44(1), 49 and 79 of the Probate and Administration Rules.

10. The Respondents did not file any affidavit in opposition to the 2<sup>nd</sup> Application.

11. The Applicants' submissions restate the background of the applications. The Applicants to the 1<sup>st</sup> application submit that the estate of the deceased ought to have been distributed in accordance with **Section 35** of the Law of Succession Act as the deceased died intestate and any interest held by the deceased Administrator could only be a life interest.

12. The Applicants take issue with the fact that beneficiary shares were not identified at the confirmation of the grant as required under **Section 71(2)** of the Law of Succession Act. They point out that with the exception of Joyce Wambui Thumbi the Komothai land parcels were distributed to all the children, but that a different approach was taken with regard to the Ruiru plot, which devolved only upon the living children, there by excluding the estates of the deceased children of the deceased herein. Further that the Administrator acted as though she held absolute title to the estate assets, excluding the Applicants, rather than being a holder of a life interest. Thus the action of the deceased Administrator were discriminatory, fraudulent and in violation of her duties under **Section 83** Law of Succession Act.

13. The Applicants argue that the facts of this case satisfy conditions (b) (d) ii) and (e) of **Section 76** as to when a grant may be revoked. With regard to the concealment of the existence of Joyce Wambui Thumbi, reference is made to a decision by Mativo, J In the matter of the estate of **Wahome Mwenje Ngonoro Deceased [2016] eKLR** where some beneficiaries were not disclosed by the Petitioner, a fact that led to the revocation of a grant.

14. The Applicants assert that the deceased Administrator acted in violation of **Section 83(f) (g) (h) and (i)** requiring complete distribution of the estate to respective beneficiaries, within 6 months of the confirmation of the grant, the rendering of an asset inventory and account in respect of all assets and liabilities of the estate and dealings therewith. That, the deceased Administrator it is submitted, failed to perform her duties diligently in this case by failing to include the deceased children **Joyce Wambui, Samuel Kamakiru** and **Daniel Karanja** or their respective estates in the distribution of all the assets of the estate.

15. As to the powers of the deceased Administrator to divest the estate of the deceased by transferring of assets in which she held a life interest, the applicants draw a parallel with the facts obtaining **In the matter of the estate of Moffat Maraga Ngethe Nairobi Succession Cause No. 1665 of 2008** where it was held that a widow who had a life interest in an estate asset could not, without the consent of the beneficiaries of the estate of the deceased, transfer such asset to a third party or beneficiary.

16. Finally, the Applicants while attacking the irregular distribution of the estate argue that the grant has

become useless and inoperative. Thus the court was urged to revoke the grant to Daniel Karanja and the deceased Administrator.

17. In their submissions in support of the 2<sup>nd</sup> application filed on 11/1/18 the Applicants (herein after the grandchildren) stake their claim on their status as the children of the deceased **Joyce Wambui Thumbi**, daughter of the deceased, and rely on the **case of the estate of Joseph Gichuki Riunge [2016] e KLR** as to their entitlement as beneficiaries. The gist of their submissions is in tandem with the submissions in support of the first application and indeed similar provisions of the law and case law are relied on. They pray for the revocation of the grant.

18. The submissions of the Respondents/Beneficiaries George Mbuthia Thumbi and Peter Mungai Thumbi and by Karen Wanjiku Mureithi are substantially similar. Their stance is that there is no evidence to bring the application within the grounds for revocation under **Section 76** of the Law of Succession Act as the Applicants rely on forged documents, and did not object during the proceedings leading to the grant in Kiambu **Succession Cause 57 of 1990 in 1991**. They point out that the bone of contention is the asset known as **RUIRU TOWN/PLOT NO. 70** (hereinafter the Ruiru Plot). They refer to an inventory filed on 26<sup>th</sup> October 2015 (actual filing is 17<sup>th</sup> January 2014) pursuant to an order by **Musyoka, J** on 26/11/13, to demonstrate that all the Applicants herein have benefitted from the estate.

19. They further highlight alleged transactions in respect of the beneficiaries' shares including their own in regard to the Komothai land parcels. They defend the execution of the deceased Administrator's duty as stated in her affidavits, and in particular, the transfer of the Ruiru plot to themselves and Karen Wanjiku Thumbi. They assert an indefeasible title thereto. They view the applications before the court as motivated by greed and urge the court to dismiss the same.

20. The 5<sup>th</sup> Respondent emphasizes the delay in the making of the present applications and asserts that the Applicants lack capacity to move the court. The same, according to the 5<sup>th</sup> Respondent are against the deceased Administrator and is therefore defective. In opposing the application, the 5<sup>th</sup> Respondent also relied on the submissions of the 3<sup>rd</sup> and 4<sup>th</sup> Respondent and grounds filed on 24/1/18 in opposition to a different application – dated 7<sup>th</sup> September 2017) and “various replying affidavits” by the deceased Administrator and the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

21. The court has considered the material placed before it with regard to the two applications. Equally, the court has had the advantage of perusing the contents of the file in **Kiambu Succession Cause 57 of 1990** which is housed within the instant file after it was submitted to the High Court, pursuant to an order by **Musyoka J** made on 29/10/13.

22. There are 3 live prayers in the first application filed on 24/9/13, which seek:

**“4. THAT the transfer of LR. RUIRU TOWN/70 or any other of the deceased assets to GEORGE MBUTHIA THUMBI, PETER MUIGAI THUMBI, KAREN WANJIKU MUREITHI or either and/or combinations of beneficiaries or third parties to the exclusion of the Applicants be nullified.**

**5. THAT this Honourable Court be pleased to order the Administrator to account for all the income received by the estate of the Deceased.**

**6. THAT the grant issued hereto and confirmed on 3<sup>rd</sup> of October 1991 be revoked.”**

23. Two prayers are outstanding in the summons filed on 11/1/18 and are:

**“3. THAT the grant of Letters of Administration Intestate issued on 1<sup>st</sup> February, 1991 to Eunice Wanjiru Thumbi and Daniel KaranjaThumbi and confirmed (to them) on 3<sup>rd</sup> October 1991 be revoked.**

**4. THAT the resultant registrations of LR No. Komothai/Kiambururu/89, Komothai/Kiambururu/T. 161/18 and LR RUIRU TOWN/70 arising from the said grant be revoked.”**

24. **Section 76** of the Law of Succession Act which is invoked in both applications before the court is in the following terms –

**“76. Revocation or annulment of grant**

**A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—**

**(a) that the proceedings to obtain the grant were defective in substance;**

**(b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;**

**(c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;**

**(d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either—**

**(i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or**

**(ii) to proceed diligently with the administration of the estate; or**

**(iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or**

**(e) that the grant has become useless and inoperative through subsequent circumstances.”**

25. Although from the material placed before the court, the deceased herein owned several land parcels at the time of his death, the one property that is at the center of the dispute is the land parcel **LR RUIRU TOWN/70**.

26. The grounds and affidavits supporting the first application contain serious allegations of fraud and impropriety against the deceased Administrator. The second application is primarily based on the ground that the impugned grant was obtained through fraud and concealment of the existence of Joyce Wambui Thumbi as a beneficiary who survived the deceased herein.

27. Having considered the affidavit material before me and submissions, it is my view that for the purposes of the two applications three related issues will effectively determine the question whether the impugned grant is liable for revocation, hence the two applications.

28. The issues are:

a) Whether Joyce Wambui Thumbi was a daughter to the deceased and whether she survived him.

b) Whether Joyce Wambui Thumbi participated in succession proceedings leading to the impugned grant.

c) Whether the land parcel **LR RUIRU TOWN/70** was part of the estate of the deceased and therefore subject to equitable distribution among the beneficiaries who survived the deceased.

29. Regarding the first issue, no affidavit was filed to controvert the assertion by the Applicant grandchildren that indeed their mother **Joyce Wambui Thumbi** was a daughter to the deceased. The evidence they have tendered showed that the said daughter died on 27<sup>th</sup> June 2000. Her father Jonah Thumbi Karimi had died earlier on 6<sup>th</sup> August 1989.

30. The petition filed subsequently by the deceased Administrator was registered as **Kiambu Succession Case No.57 of 1990** on 23<sup>rd</sup> March 1990. A grant was issued to the deceased Administrator and a son, **Daniel Karanja Thumbi**, on 1<sup>st</sup> February 1991. A copy of the affidavit in support of the Petition for Letters of Administration Intestate [P & A5] contained in the Succession cause file indicates that the deceased Administrator and her co-petitioner listed the following persons as having survived the deceased:

- a) Eunice Wanjiru Thumbi (wife)
- b) Daniel Karanja Thumbi (son)
- c) George Mbuthia Thumbi (son)
- d) Samuel Kamakiru Thumbi (son)
- e) Karen Wanjiku Thumbi (daughter)

31. The first record of the existence of Joyce Wambui Thumbi as a beneficiary by the deceased Administrator is in the inventory filed on 17<sup>th</sup> January 2014, pursuant to the orders of Musyoka J. The Inventory records that the parcel of land known as **LR Komothai/Kiambururu/T.161/18** was shared by *inter alia* **Gladys Nyamuhu Mworja** and **Eunice Wanjiru Mworja**, described therein as “*Granddaughters to the Administrator being children to the late Joyce Wambui Thumbi who was a daughter to the deceased.*”

32. There is no explanation for the exclusion of Joyce Wambui Thumbi from the proceedings in **Kiambu Succession Cause 57 of 1990**. **Section 57** of the Laws of Succession Act provides that every application for a grant of representation ought to include, *inter alia*, “the names and addresses of all surviving spouses, children, parents, brothers and sisters of the deceased, and of the children, if any, of his or hers then deceased.” To the extent therefore that the deceased Administrator and her co-administrator failed to include the name of Joyce Wambui Thumbi, the proceedings in **Kiambu Succession Cause No. 57 of 1990** were defective in substance; and in so far as the material fact relating to the existence of **Joyce Wambui Thumbi** as a child of the deceased was concealed from the court, the grant was fraudulently obtained. In both instances above, the concealed fact was essential to the justification of the issuance of the grant. The foregoing disposes of the first and second questions stated for determination.

33. Regarding the final question, the starting point is the most recent statement of the deceased Administrator namely, the inventory filed on 17<sup>th</sup> January 2014. The said inventory includes the **Ruiru plot** which the deceased Administrator asserts to have transferred to the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents whom she referred to as the “new owners since 2012.” This inventory appears to contradict the deceased Administrator’s affidavits in response to the first application, wherein she deponed that the Ruiru plot did not constitute the estate of the deceased. The inclusion of the Ruiru land parcel in the inventory of the assets of the estate of the deceased Administrator puts paid her earlier assertions that the copy of certificate of confirmation of grant annexed to the 1st application was a forgery, for the stated reason that, the confirmed grant did not include the Ruiru plot.

34. In the **Succession Cause file No. 57 of 1990**, there is a copy of a summons for confirmation of grant, which, based on the original proceedings therein was granted on 6.9.91. The original record of

proceedings shows the date of filing as 26.7.91 the latter date corresponding with the date stamp on the copy of summons for confirmation on record. The original record of proceedings shows that on 30.9.91, only 24 days since the grant was confirmed, a fresh summons was filed, and fixed for hearing on 3<sup>rd</sup> October 1991.

35. A copy of the summons bearing the date stamp 30/9/91 is on record. It reads as follows:

**“Let all parties concerned attend court/judge in chambers on the 3<sup>rd</sup> of October 1991 at 9.00 o’clock in the forenoon when the court will be moved/on the hearing of an application on the part of the Applicant for orders:-**

**THAT this Honourable court be pleased to hear this application and amend certificate of confirmation and issue us another one to include two assets of the deceased’s estate which was left out by us during the filing of this succession case.**

**...The application is supported by sworn affidavit of Eunice Wanjiru Thumbi one of the petitioner herein”. (sic)**

36. The application is signed **“E W Thumbi”** by the applicant. A copy of what is described as an amended affidavit by **Eunice Wanjiru Thumbi** dated stamped 30/9/91 and similarly signed by the deponent E W Thumbi on 30<sup>th</sup> September 1991 states *inter alia* that, the certificate of confirmation of grant had already been issued and that it had been discovered that some assets of the estates had been left out. At paragraph 4, it is deponed:

**“THAT I now swear this affidavit to request this Honourable court to in include the plots No. Komothai/Kiambururu T/161/18 and Ruiru Plot No. 70 and issue us with another certificate of confirmation to include those two assets which were left out by us during filing of this case.” (sic)**

37. The record of proceedings 3.10.91 clearly relating to the summons for rectification contains an order by Mwangi RM as follows:

**“New certificate of confirmation to issue to include the deceased’s assets as shown in the supporting affidavit herein”.**

38. The copy of confirmed grant (rectified) issued on 3<sup>rd</sup> October 1991 includes the land parcels Ruiru Town/70 plot Komothai/Kiambururu/T 161/18 and Komothai/Kiambururu/89, and is comparable to the copy annexed to the supporting affidavit to the first application. The assertion by the deceased Administrator in her affidavit filed on 20<sup>th</sup> November 2013 that her annexure **“EW T1”** dated 6<sup>th</sup> September 1991 was the only genuine and legal confirmation of grant is a half-truth. A similar copy of that grant is in the lower court file. However the latter record also shows that there was a rectification of that grant several days after the first certificate of confirmation of grant was issued on 6<sup>th</sup> September 1991.

39. The court has similarly studied the copies of records of ownership in respect of **LR RUIRU TOWN/70** as presented in the various affidavits of the Applicants in the first application and by the deceased Administrator. The copy of green card annexed to the deceased Administrator’s affidavit filed on 20/11/13 and marked **“EWT 5”** contains entries 5 – 9 showing ownership by Samuel Mureithi Murioki as at 29.9.94, and later by Eunice Wanjiru Thumbi as from 14.8.96. The green card was opened on 12.5.73 and is endorsed as **“continuation RUIRU/TOWN/70”**. Clearly this copy of green card does not contain the entire history of the land parcel.

40. When confronted with copies of the green card containing the first four entries in respect of the Ruiru land parcel which is part of annexure **“EWK 9”** to the supplementary affidavit of one of the first Applicants, Esther Njeri Kagunda, (filed on 22/5/14), the deceased Administrator’s response as contained

in her affidavit filed on 12<sup>th</sup> June 2014 was that the green card was not certified. That further, she was the only owner of **RUIRU TOWN/70** after the property was transferred to her by one Samuel Mureithi Murioki. That the Applicants were at liberty to pursue the stated Murioki.

41. This affidavit by the deceased Administrator was filed five months after the inventory filed on 17<sup>th</sup> January 2014, which included the Ruiru land parcel among the assets of the deceased. Whether certified or not, the set of green cards annexed to the Applicants' supporting affidavit filed on 22/5/14 includes the counterpart of the green card proffered by the deceased Administrator and containing entries from No. 5 to 9 with the transfer to Samuel Mureithi Murioki on 28.9.94. The first counterpart, clearly omitted by the deceased Administrator logically runs from 12.5.73, the date when plot **LR RUIRU TOWN/70** was registered in the name of **Jonah Thumbi Karimi** (entry 1), and transfer to the deceased Administrator on 4.11.91 (entry 3). The entries 2 and 4 relate to issuance of titles to the registered owners in entry 1 and 3. Entries 1 – 4 are crossed out by pen. Entries on the reverse page are in regard to charges, encumbrances and discharges registered over the property between 1973 and 1994.

42. The last owner of the property on the first counter part of the green card is the deceased Administrator (entry 3) and the first on the second counterpart is Samuel Mureithi (entry 5) who was registered as proprietor in 1994. He subsequently and transferred the land to the deceased Administrator in 1996. Entry 8 reflects the issue of the certificate of lease to the deceased Administrator on 14.8.96. The certificate of lease is the first document in annexure bundle "**ENK 9**" to the supporting affidavit of the first application and confirms entry No.8 in second green card counterpart. Thus, it cannot be true, as the deceased Administrator asserted that the property always belonged to her.

43. Based on the affidavits of the deceased Administrator and the search and title documents attached to the affidavit supporting the second application marked annexure "**EWM2**" the land parcel **LR RUIRU TOWN/70** was transferred to George Mbutia Thumbi, Peter Muigai Thumbi and Karen Wanjiku Mureithi on 6<sup>th</sup> August 2013. The three beneficiaries are children of the deceased and parties to the applications under determination.

44. In view of the evidence before me, it is clear as night and day that the land parcel **RUIRU TOWN/70** was the property of the deceased since 1973. And that, the deceased also owned two other properties in Komothai which are not in dispute. The deceased Administrator's disingenuous attempts to remove the Ruiru plot from among the assets of the deceased are obvious from the material before me. Ultimately, the said administrator transferred the Ruiru land parcel to only 3 of her children even though there were other beneficiaries such as the four Applicants before the court. She had no right to do so being only a holder of a life interest in the property and in absence of consent by all beneficiaries. All the beneficiaries were entitled to an equal share of the Ruiru land parcel under **Section 35** of the Law of Succession Act.

45. The actions of the deceased Administrator are tainted by fraud and deception. This, coupled with the exclusion of one of the beneficiaries from the lower court proceedings renders the grants issued in favour of the deceased Administrator and her Co-Petitioner liable for revocation under **section 76** of the Law of Succession Act. In the circumstances, I do grant prayers 4 and 6 of the summons filed on 24/9/13 and prayers 3 and 4 of the summons filed on 11<sup>th</sup> January 2018. In light of the demise of the deceased Administrator in 2015, the prayer for rendering accounts cannot issue. Parties will bear own costs.

46. At this moment in time there are four pending applications on record, namely –

- a) summons filed on 25/4/18 by Peter Muigai Thumbi.
- b) summons filed on 8<sup>th</sup> September 2017 by Esther Kagunda.
- c) summons filed on 31<sup>st</sup> march 2017 by B.W. Muchoki advocate on behalf of the deceased administrator,
- d) summons filed by Esther Njeri Kagunda on 17<sup>th</sup> July 2015

47. By virtue of this ruling, some of the applications have been rendered otiose. This is true true of the application filed on 31<sup>st</sup> March 2017, and the one filed on 17<sup>th</sup> July 2015. The said applications are deemed to be spent. With regard to the applications filed on 8<sup>th</sup> September 2017 and 25/4/18, and in view of the findings in today's ruling, and general circumstances of this case, the court directs that all the remaining beneficiaries, whether children of the deceased or their spouses or grandchildren attempt an amicable settlement in the matter by way of mediation, and agree on the appointment of two Administrators from among them.

48. The matter will be mentioned on 25<sup>th</sup> October 2018 to receive representations in this regard and to give further directions in the matter and/or in relation to the two outstanding applications. Pending the date of scheduled mention, no party or agent of or proxy to any party in this suit may file, any further application without leave of this court.

**Delivered and signed this 27<sup>th</sup> day of July, 2018.**

**C. MEOLI**

**JUDGE**

**In the presence of:**

For the applicants Esther Njeri Kagunda and

Mary Wairimu Karanja – Miss Karuitha

For the Applicants Eunice Wanjiku Mwaria and

Gladys Nyamuhu Mwaria – Mr. Ndegwa

For the Respondents:

George Mbuthia Thumbi

Peter Muigai Thumbi            Mr. Njuguna

Karen Wanjiku Thumbi – Mr. Njeru

Court clerk – Kevin