



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION CAUSE NO. 102 OF 1998**

**In the Matter of the Estate of Francis M Murithi (Deceased)**

**KENNETH KIMATHI.....APPLICANT**

**-Versus-**

**VERONICAH KANARIO MURITHI**

**CATHERINE MURITHI**

**MARTHA NTARARA MURITHI.....INTERESTED PARTIES**

**JUDGMENT**

[1] The Interested Parties namely, Catherine Murithi and Martha Ntarara Murithi have applied for Confirmation of Grant issued to Kenneth Kimathi, Catherine Murithi and Martha Ntarara on 20<sup>th</sup> March 2018.

[2] The interested parties have proposed that the estate be distributed as follows:

**A. MERU MUNICIPALITY BLOCK II/31-0.465 HA**

**(i) VERONICAH KANARIO MURITHI**

**(II) MARTHA NTARARA MURITHI**

**(III) CATHERINE MURITHI**

**B. MERU MUNICIPALITY BLOCK II/63-0.45HA**

**(I) LUKE KIUMBE MURITHI**

**(II) ANDREW MUGAMBI MURITHI**

**(III) MARTIN KARANI MWENDA (Deceased) & brothers-to hold in trust for the children of the late PETER MWENDA**

**C. MERU MUNICIPALITY BLOCK A& BII/125**

**(I) LAZARO KINOTI M' MURITHI**

**(I) BRIAN KIMATHI MURITHI-(on behalf of the late WILLIAM MWIRIGI MURITHI)**

**(III) BRIAN KITHINJI BUNDI –to hold in trust for the children of late ANN KAREE BUNDI**

**(IV) BELINDA KATHURE MWIRIGI- to hold in trust for SHARON MAKENA**

D. NTIMA/IGOKI/1970

(I) LUKE KIUMBE MURITHI *share equally*

(II) ANDREW MUGAMBI MURITHI

E. KIIRUA /KIIRUA/80

(I) LUKE KIUMBE MURITHI

(II) ANDREW MUGAMBI MURITHI

(III) VERONICA KANARIO MURITHI

(IV) MARTHA NTARARA MURITHI

(V) CATHARINE MURITHI

(VI) LAZARO KINOTI MURITHI

(V) KENNETH KIMATHI MURITHI *(on behalf of the late)*

(VI) BARBRA KARIMI *William Mwirigi Murithi*

(VII) BRIAN KITHINJI BUNDI

BETTY KARIMI *to hold in trust for the children*

CAROLINE NTINYARI *of late ANN KAREE BUNDI*

EVANS KIMATHI

DOMINIC NDUMBA

(IV) PETER MWENDA

- MARTIN KARANI MWENDA (*Deceased*) – *Beneficiary* - NICOLE KENDI

- GEOFFREY MWITI

- ANTONY MUTUMA

- DAVID THURANIRA (*deceased*) - *beneficiaries* MAUREEN KAGENDO and JAMINE MURIUKI

- JAMES KIRIINYA

(VII) BELINDA KATHURE MWIRIGI- *to hold in trust of SHARON MAKENA*

F. LOWER ABOTHUGUCHI/IGANE/1101

(I) LUKE KIUMBE MURITHI

(II) ANDREW MUGAMBI MURITHI

(III) VERONICA KANARIO MURITHI

(IV) MARTHA NTARARA MURITHI

(V) CATHERINE MURITHI

(VI) LAZARO KINOTI M' MURITHI

(VII) KENNETH KIMATHI MURITHI- (*on behalf of the late WILLIAM MWIRIGI MURITHI*)

*(IX) BRIAN KITHINJI BUNDI- to hold in trust for the children of the late ANN KAREE BUNDI*

*(X) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust of CHARITY KANANU MWIRIGI*

**G. KIAMURI "A" /166-4.2 HA**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(II) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI- (on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI-to hold in trust for the children of late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI- to hold in trust for CHARITY KANANU MWIRIGI*

**H. NKUENE/MITUNGUU-KITHINO/207- 15.0HA**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(II) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI- (on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI-to hold in trust for the children of late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI- to hold in trust of CHARITY KANANU MWIRIGI*

**I. KIIRUA/KIIRUA NKANDO/2862-2.7HA**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(III) VERONICA KANIRO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI- (on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI-(to hold in trust for the children of the late AA KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust of CHARITY KANANU MWIRIGI*

**J. KIIRUA/KIIRUA NKANDO/2861-3.63HA**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(III) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI-(on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI- to hold in trust for the children of the late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust for CHARITY KANANU MWIRIGI*

**K. EABL 338 SHARES**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(III) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI MURITHI*

*(VII) KENNETH KIMATHI MURITHI- (on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI-to hold in trust for the children of the late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA-to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust of CHARITY KANANU MWIRIGI*

**L.STANDARD BANK SHARES**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(III) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI-on behalf of the late WILLIAM MWIRIGI MURITHI*

*(VIII) BRIAN KITHINJI BUNDI-to hold in trust for the children of the late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA-to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust for CHARITY KANANU MWIRIGI*

**M. KENYA AIRWAYS SHARES**

*(I) LUKE KIUMBE MURITHI*

*(II) ANDREW MUGAMBI MURITHI*

*(II) VERONICA KANARIO MURITHI*

*(IV) MARTHA NTARARA MURITHI*

*(V) CATHERINE MURITHI*

*(VI) LAZARO KINOTI M' MURITHI*

*(VII) KENNETH KIMATHI MURITHI- on behalf of the late WILLIAM MWIRIGI MURITHI)*

*(VIII) BRIAN KITHINJI BUNDI- to hold in trust for the children of the late ANN KAREE BUNDI*

*(IX) MARTIN KARANI MWENDA- to hold in trust for the children of the late PETER MWENDA*

*(X) BELINDA KATHURE MWIRIGI-to hold in trust for CHARITY KANANU MWIRIGI*

[3] On 20<sup>th</sup> March 2018, the court directed the Applicant to file his proposed mode of distribution within 30 days. The cause was scheduled for mention on 24<sup>th</sup> July 2018. On 24<sup>th</sup> July 2018, Mr. E Kimathi holding brief for Mr. Kaumbi for the Applicant intimated to court that Mr. Kaumbi was yet to file submissions and requested for more time to do so' The request was granted by court but with further directions that he files mode of distribution within 21 days. As at the time of writing this judgment the Applicant had not filed his proposed mode of distribution.

**No spouse but children**

[4] Although only the interested parties filed their mode of distribution, I will be guided by law in my decision. The widow of the deceased died on 18.10.2016. I will take therefore that the deceased has left behind children and no surviving spouse. Accordingly, the guiding provision of the law is Section 38 of the Law of Succession Act which states:

***“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.”***

[5] The deceased sired the following children:-

***1. Peter Mwenda.....son (deceased)***

***2. Veronica Kanario Murithi..daughter***

***3 Andrew Mugambi Murithi....son***

***4. Ann Karee...daughter (deceased)***

***5. Luke Kiumbe..son***

***6. William Mwirigi..son (deceased)***

***7. Charity Kananu...daughter (deceased)***

**8. Martha Ntarara''daughter**

**9. Charles Kinoti..son**

**10. Catherine Kairuthi Murithi..daughter**

[6] Applying the law, I direct that all the estate property listed below shall devolve equally amongst the children of the deceased named above. The estate property are

**A. MERU MUNICIPALITY BLOCK II/31-0.465 HA**

**B. MERU MUNICIPALITY BLOCK II/63-0.45HA**

**C. MERU MUNICIPALITY BLOCK A& BII/125**

**D. NTIMA/IGOKI/1970**

**E. KIIRUA /KIIRUA/80**

**F. LOWER ABOTHUGUCHI/IGANE/1101**

**G. KIAMURI "A" /166-4.2 HA**

**H. NKUENE/MITUNGUU-KITHINO/207- 15.0HA**

**I. KIIRUA/KIIRUA NKANDO/2862-2.7HA**

**J. KIIRUA/KIIRUA NKANDO/2861-3.63HA**

**K. EABL 338 SHARES**

**L.STANDARD BANK SHARES**

**M. KENYA AIRWAYS SHARES**

[7] As some of the beneficiaries are deceased, their children shall take, in equal shares, the share which their parent would have taken had he not died. The persons listed in paragraph 3 of their affidavit sworn on 24<sup>th</sup> July 2018 by the interested parties shall take the share of their deceased parents as shown below:

(a) Peter Mwenda (deceased) - survived by-;

(i) Geoffrey Mwiti

(ii) Antony Mutuma

(iii) David Thurania (deceased) – survived by-;

• M K (Minor)

• J M (Minor)

(iv) James Kiriinya

(v) Martin Karani (deceased) - survived by-:

• N K (minor)

(b) Ann Karee (deceased) - survived by -;

(i) Dominic Ndumba

(ii) Betty Karimi

(iii) Brian Kithinji

(iv) Caroline Ntinyari

(v) Evans Kimathi

(c) William Mwirigi Murithi (deceased) - survived -;

(i) Kenneth Kimathi

(ii) Barbra Karimi

(d) Charity Kananu Mwirigi (deceased) - survived by -;

(i) Belinda Kathure

(ii) Sharon Makena

. . I have not been provided with other list thereof. I also do not have any reason to doubt its exhaustiveness.

[8] Accordingly the Grant of Letters of Administration issued to Kenneth Kimathi, Catherine Murithi and Martha Ntarara Murithi is hereby confirmed in foregoing terms.

[9]This being a succession matter there will be no order as to costs.

**Dated, signed and delivered in open court at Meru this 30<sup>th</sup> day of October 2018**

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**F. GIKONYO**

**JUDGE**

**In presence of**

Kithinji for interested parties

Interested parties present

Kaumbi for applicants – absent

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**F. GIKONYO**

**JUDGE**