



REPUBLIC OF KENYA



**In re Estate of Wamutego Kuria (Deceased) (Succession Cause
511 of 2004) [2025] KEHC 2326 (KLR) (5 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 2326 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 511 OF 2004**

PN GICHOHI, J

MARCH 5, 2025

JUDGMENT

1. This matter has a lengthy background. The deceased herein died sometimes in September, 1968. Representation to his estate was sought in this cause through a petition filed herein on 29th September, 2004 by Kuria Kiarie Ngumo, Kuria Wamutego and Gabriel Gitau Waweru in their capacities as sons and grandson of the deceased respectively.
2. The Petitioners stated that the deceased died intestate having married Seven (7) wives and from each household, the deceased was survived by the sons as follows:-1st House-Gabriel Gitau Waweru-son2nd House- Geoffrey Muiruri-son3rd House-Thomas Mugi Kerore-son4th House-Michael Ndung'u Gichuhi-son5th House Kuria Kiarie Ngumo-son6th House-Kuria Wamutego-son7th House-Michael Mwenja Gitau-son
3. The Petitioners listed the following as assets left behind by the deceased: -
 - i. Naivasha/Mwiciringiri Block 2/204
 - ii. Naivasha/ Mwiciringiri Block 2/205
 - iii. Loc 1 Kigio/505
 - iv. Loc 1 Kigio/216
 - v. Shares with Nyamathi Co-operative Society Ltd
4. The petition was gazetted on 3rd December, 2004 and a Grant of Letters of Administration of the estate of the deceased herein was issued to Kuria Kiarie Gumo, Kuria Wamutego and Gabriel Gitau Waweru on 5th May, 2005 as the administrators of the Estate of the Deceased.
5. On 6th April, 2006, the Petitioners filed Summons for Confirmation of a Grant stating that all the seven Houses had agreed to distribute the Estate of their Deceased father equally among all the Seven (7) Households.



6. Before the Confirmation was done, John Ndungu Kimatu (one of the sons of the deceased) filed a protest against the confirmation of the Grant but he died before prosecuting his protest.
7. Soon thereafter on 18th July, 2007, Geoffrey Muiruri Wamutego (one of the sons of the deceased from the 2nd House) filed an Affidavit of Protest sworn on 18th July, 2007 against confirmation of said Grant.
8. In that Affidavit, the Protester, stated that the 1st and 2nd Petitioners are the deceased's sons from the 5th and 6th House respectively, while the 3rd Petitioner is the grandson of the deceased from the 1st House.
9. He deponed that contrary to the averments by the Petitioners, the deceased married 13 wives, wherein his mother Watta Wamutego was the first wife and that he was the 2nd born in a family of 6 children, who have all passed on.
10. He gave the background of the deceased and stated that his father initially resided on land parcel numbers Loc Kigio/216 and 505 located in Murang'a until late 1950s when he moved out with his entire family to Naivasha leaving behind his mother occupying both parcels of land, an indication that he had bequeath her mother the said parcels of land.
11. He stated that the deceased, together with one of his sons from the 4th House (Kimatu Mutego), made contributions and purchased two parcels of land being Naivasha Mwiciringiri Block 2/204 and Naivasha Mwiciringiri Block 2/205 and prior to his demise, he bequeathed both parcels of land to his son Kimatu Mutego.
12. He deponed that his mother passed on in 1960, leaving him as the only surviving child and therefore, he is entitled to the entire portion of land in Muranga. He added that none of the family members has ever laid any claim to the land in Muranga before and therefore, the proceedings herein are an afterthought.
13. He further stated that since their father died before enactment of the *law of succession Act*, the law applicable in the distribution of the Estate of their deceased father is the Kikuyu Customary law, which allowed the deceased to bequeath his wife the parcel of land in Murang'a which now devolves to her children.
14. He stated that he is not interested in any of the parcels of land in Naivasha adding that the parcels were given to his step- brother Kimatu Mutego, which he transferred to himself in 1991.
15. Before that Protest was heard, the Protestor (Geoffrey Muiruri Mutego) died on 21/11/2007 and an application for substitution was made on 29th July, 2010, to have his son, James Kibunja Geoffrey, take over as the Protestor. The Court allowed that application.
16. In response to the protest, the Petitioners filed a Replying Affidavit sworn on 23rd May, 2013, stating that contrary to the allegations that the deceased married 13 wives, he only had 7 wives as listed in the petition and Watta Wamutego was the third wife and not the first as alleged.
17. It was deponed that the Petitioners herein were appointed as Administrators of the Estate of the deceased after a joint meeting of the entire Wamutego family and that all properties of the deceased were listed.
18. They denied the Protestor's averments that the deceased bequeathed Watta Wamutego (the Protestor mother) all parcels of land in Muranga. They stated that during that time, the Protestor was in Arusha and could not be privy to any arrangements in Murang'a.
19. The Petitioners stated that the deceased, upon moving to Naivasha, purchased two parcels of land being Naivasha/Mwiciringiri Block 2/204 and Naivasha/Mwiciringiri Block 2/205 and Kimatu



Mutego only assisted him in paying survey fees. Therefore, the properties listed in the petition belong to the Estate of the deceased and should be distributed equally among all the seven houses.

20. In a rejoinder filed by James Kibunja Geoffrey (Protestor) on 21st June 2013, he stated that their family's consent was not sought before the Petitioners were appointed as administrator of the estate of the deceased. That Michael Ndungu Gichuhi and Michael Mwenje Gitau, who granted their consent, are not dependants of the estate of the deceased as such did not have any authority to give any consent to the Petitioners. He further stated that Gabriel Gitau is the grandson of the deceased but does not represent any household, as such, he is not a dependant.
21. He maintained that the deceased bequeath all the Murang'a parcels of land to their late grandmother in her lifetime as such the same devolve to her children and the grandchildren. He denied allegations that his father had been living in Arusha and only repatriated in 1950.
22. Kuria Wamutego died on 29th September, 2013 and on 26th July, 2014, Kuria Kiarie Gumo, also died. Since they were both Petitioners and Administrators of the Estate, an application for substitution was made by their sons John Kinyanjui Kuria and John Gichuhi Gitau, but the family held a meeting on 8th October, 2016 where they decided to have the remaining administrator, Gabriel Gitau Waweru as the sole Administrator of the Estate of the deceased.
23. The sole Administrator filed another Affidavit stating that at the time the deceased died, he had only two parcels of land being Loc Kigio/216 and Loc Kigio/505, which were both registered under his name. Further that he was in the process of buying shares at Nyamathi Farmers' Co-operative Society at Naivasha but died before paying the full purchase price, which balance was cleared by contributions from the entire family. However, he stated that Kimatu Wamutego who was residing in the subject land fraudulent acquired title to the parcels of land, an issue that is pending determination at the National Land Commission.
24. He maintained that the deceased left a wish that all his properties be shared equally among his houses.

Protestor's case

25. That case was heard by different judges and on 18th November, 2021, Prof. Joel Ngugi J (as he then was), directed the matter to be heard de novo. On 17th March, 2022, the Protestor (James Kibunja Geoffrey) was heard afresh.
26. He told the Court that he was testifying on behalf of his father Geoffrey Muiruri Wamutego, the son of the deceased herein, who died in 2007. His testimony was that the deceased initially lived in Muranga before relocating to Naivasha in 1950's with his 12 wives, leaving behind one wife, Watta Wamutego, his grandmother. He adopted the Affidavit sworn by his father of 18/7/2007 and his Affidavits of 20/6/2013 and 8/3/2022 in support of his protest.
27. He told this Court that his claim is that the two parcels of land in Murang'a were bequeath to her late grandmother when his grandfather relocated to Rift valley. That when his grandfather relocated to Rift valley, he settled in Naivasha and bought land for all his wives, who were all buried in Naivasha upon their demise.
28. Upon cross examination by Gabriel Gitau Waweru (the Administrator) , the Protestor stated that the Murang'a land was given to his grandmother when their grandfather relocated to Naivasha. He stated that he is only aware that his grandmother had two sons, that is, his father and one Mr. Kibunja and also three daughters (his aunties). He stated that the property in Murang'a should go to Watta Wamutego House in its entirety to be divided among his children.



29. He alleged that the property in Naivasha is owned by Kimatu Wamutego as he helped their grandfather acquire the same. He added that he believed the deceased had several properties which benefitted the Administrators. He however did not have any evidence in support of the allegations.

Petitioner's case.

30. Gabriel Gitau Waweru (the sole Administrator) testified that the whole family save for the Protestor's family and the family of Kimatu Wamutego agreed to have the entire Estate distributed equally among all the 7 houses.
31. He explained that the two properties in Murang'a measure a total of 9.8 acres while the two parcels of land in Naivasha are cumulatively 17.5 acres which should be distributed equally so that each family gets 1.4 acres in the Murang'a land and 2.5 acres in the Naivasha land as per the distribution schedule dated 13/8/2005. It is his testimony that the properties in Murang'a are still under the name of their grandfather (deceased) and therefore free for distribution.
32. In cross examination by Njeri Njagua (Advocate for the Protestor), the Petitioner stated that he is the grandson of the late Wamutego Kuria and that all his sons have died except Nganga Wamutego from the 7th Family.
33. He further stated that Watta Wamutego (the Protestor's grandmother) was the second wife of their deceased grandfather and that on relocation to Limuru, he left behind, Watta Wamutego on the two parcels of land and at the time of her death in 1960, she was buried on the said land before subdivision was done in 1967, that divided the land into two.
34. He confirmed that the deceased acquired other properties but was only aware of the land in Naivasha and Murang'a. He added that none of the surviving wives and children ever claimed the land in Murang'a after the death of their grandfather.
35. He told this Court that his grandfather has acquired several properties but his son Kimatu Wamutego fraudulently dealt with the said properties but no case was opened for cancellation of any of the properties in the name of the said Kimatu Wamutego.
36. He further stated that arbitration was done and it was confirmed that the two parcels of land in Naivasha were properties of the deceased. It was his evidence that the report by the liquidators of the co-operative society recommended that the titles registered in the name of Kimatu Mutegeo be cancelled and the properties revert back to the deceased Estate.

Protestor's submissions.

37. The Protestor submitted on two issues:-
1. What law applied in the distribution of the Estate of the deceased.
 2. To who should parcel Loc Kigio/216 and Loc Kigio 505 devolve.
38. On the first issue, he argued that the deceased died in 1968 before the commencement of the *Law of Succession Act* and therefore, the law applicable in the distribution of his Estate should be Kikuyu customary laws as per Section 2 of the *Law of Succession Act*. It is on that basis that he argued that according to Kikuyu customary law regarding settlement of wives by their polygamous husbands, the land on which a wife was settled became her portion.
39. On the second issue, the Protestor argued that their grandmother Watta Wamutego was left in the suit property in the year 1950 and the deceased moved his family to Naivasha, which move implied that



the deceased bequeath the said land to the said wife. It was his argument that in any event, they have lived in the said property uninterrupted from 1950 to date and in the circumstances, it is only fair that they are allocated the entire parcel of land in Murang'a.

40. In support of this argument, he relied on the case of *Re Estate of Stephen Nzau Koka*(Deceased) [2019] eKLR where the Court held:-

“How then should the distribution be undertaken? It is clear that the two houses have been utilising respective properties or portions thereof and it is important that they continue doing so. Accordingly, in the first instance, the two houses will continue occupying and using the properties which are in their occupation and use.”

41. The Protestor further cited the decision by Mativo J (as he then was), in the case of *Jeremiah Muchogo Macharia alias Nguchuga Macharia - deceased Succ Cause No. 176/2011* where in considering distribution of the estate of the deceased survived by a widow and children, stated that the issue which would arise is whether the surviving spouse can exercise life interest over property that ought to devolve to children other ‘than her own’ stated:-

“I have considered the justice of the case and taken into account that it is not always easy to achieve equality in cases of this nature as was observed in the case of *Rono v Rono* and what may be fair in one case may not be fair or applicable in another case. I have also considered that each case has to be determined on its peculiar facts and circumstances.”

42. Using the above case, it was submitted that the deceased herein had 13 wives and among them was Watta Wamutego (Deceased) with whom they lived together on the Murang'a parcel of land until sometimes in the late 1950's when the Deceased moved out with his entire family to Naivasha leaving her on the suit parcels.
43. It was submitted that upon the demise of the said Watta Wamutego in early 1960's, she was buried on one portion of the said parcels of land which her late husband had bequeathed her after relocating his family members to Naivasha. That the family of Watta Wamutego has been living in the said parcel of land interrupted for all those years, hence by implication, the net intestate estate devolves upon the surviving spouse to be given to his children.
44. In conclusion, the Protestor urged this Court to dismiss the proposal made by the administrator and prayed for the parcels of land in Murang'a to be given to Watta Wamutego house.

Petitioner's Submissions.

45. The Petitioner summarised the Affidavits filed and argued that the deceased had two parcels of land being Loc Kigio Block 2/216 and Loc. Kigio Block 2/505 all measuring 9.8 acres and that the deceased was also a member of Nyamathi Farmers' Co-operative society as evidenced by the share certificate issued to him on 27th June, 1972. That from the said shares, he bought 17.5 acres of land which at the time of the liquidation of the co-operative society had been divided into four portions being Naivasha Mwiciringiri Block 2/204, measuring 7.5 acres, Naivasha Mwiciringiri Block 2/205 measuring 7.5 acres, Naivasha Mwiciringiri Block 3/13 measuring 2 acres and Naivasha Mwiciringiri Block C/97 measuring 0.5 acres.
46. He therefore argued that all these parcels of land that were acquired by their late grandfather should be distributed equally among all his seven (7) houses. He submitted that the argument by the Protestor that one household should inherit all parcels of land in Murang'a is without any basis and should be ignored by this Court.



Determination.

47. For emphasis, it is the duty of a probate court to identify the estate of a deceased person and the lawful beneficiaries to the estate and then distribute the same to the beneficiaries. Indeed, this Court is persuaded by decision in *In Re Estate of Alice Mumbua Mutua (Deceased)* [2017] eKLR where Musyoka J. elucidated this role as follows:-

“...The *Law of Succession Act*, and the Rules made thereunder, are designed in such a way that they confer jurisdiction to the probate court with respect to determining the assets of the deceased, the survivors of the deceased and the persons with beneficial interest, and finally distribution of the assets amongst the survivors and the persons beneficially interested. The function of the probate court in the circumstances would be to facilitate collection and preservation of the estate, identification of survivors and beneficiaries, and distribution of the assets.”

48. After considering the Petition, the Protest and the Affidavits filed by both parties and the annexures thereto, the issues for determination are:-

1. Which law is applicable in the distributions of the Estate of the deceased.
2. Which properties are vested in the Estate of the deceased for distribution.
3. Who are the legitimate dependants of the deceased.

4. How should the Estate of the deceased be distributed.

49. From the evidence adduced by the parties herein, the deceased died in the year 1968 which was before the *Law of Succession Act* came into force on 1st July 1981.

50. Section 2 of the *Law of Succession Act* provides-

‘(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 testamentary succession to estates of deceased persons dying after the commencement of this Act and to the administration of estates of such persons.

(2) the estates of persons dying before the commencement of this Act are subject to the written laws and customs applying at the date of death, but nevertheless the administration of their estates shall commence or proceed so far as possible in accordance with this Act.’

51. It is clear that when it comes to the distribution of the assets of the deceased estate, the distribution is subject to the law that prevailed prior to 1st July 1981.

52. The deceased herein was a Kikuyu by tribe and therefore, the applicable law as per Section 2 of the *Law of Succession Act* is the Kikuyu customary law as long as the same is not in conflict with *the Constitution* and other laws.

53. It is noted that an issue came up as to whether the deceased died testate or intestate. The Petitioner, a grandson of the deceased, suggested during hearing that the deceased had made a wish to the entire family that his Estate shall be divided equally among all his houses. This suggestion was rejected by the protestor, also a grandson of the deceased.

54. From the material before this Court, there is no evidence of any written Will but a suggestion was made of an oral Will. The alleged oral Will is however not supported by any evidence at all.



55. If such an oral Will existed, there would have been evidence of who were present during the pronouncement by the deceased herein as to how his property should be distributed and who should be the administrator. Without such evidence, this Court is satisfied that the deceased died intestate.
56. As to what properties the deceased left behind, the Administrator listed Naivasha/Mwicingiri Block 2/204, Naivasha/ Mwicingiri Block 2/205, Loc 1 Kigio/505, Loc 1 Kigio/216 and Shares with Nyamathi Co-operative Society Ltd.
57. However, in the course of these proceedings, the parties dropped the claim for shares in Nyamathi Cooperative Society for reasons that the society was dissolved in 1991 and upon dissolution of the society, the Liquidator, John. K. Ndungu listed four properties being Naivasha/Mwicingiri Block 2/204, Naivasha/ Mwicingiri Block 2/205, Naivasha/Mwicingiri Block 3/13 and Naivasha/ Mwicingiri Block C/97.
58. It is however noted that except for the Murang'a parcels of land being Loc 1 Kigio/505 and Loc 1 Kigio/216, the other parcels of land are not in the name of the deceased and no evidence is tendered to confirm that indeed the deceased at one point had ownership of any of the other parcels of land.
59. Indeed, Geoffrey Muiruri Wamutego and Kimatu Mutego objected to the inclusion of the Naivasha/ Mwicingiri Block 2/204 and Naivasha/ Mwicingiri Block 2/205 in the Estate of the deceased claiming that Kimatu Mutego acquired the said parcels of land and that a search was conducted by the Administrator which showed that the two parcels of land were in the name of the said Kimatu Mutego.
60. Under Section 3 of the *law of Succession Act*, an “estate” means the free property of a deceased person, while “free property” in relation to a deceased person is defined to mean the property of which that person was legally competent to freely dispose of during his lifetime and in respect of which his interest has not been terminated by his death.
61. While expounding on the above Section, Odunga J (as he then was) in Re Estate of Job Ndunda Muthike (Deceased) [2018] eKLR , Odunga J (as he then was) stated :-
- “It is therefore clear that any property which the deceased was not legally competent freely to dispose during his lifetime and in respect of which his interest had been terminated by his death cannot form part of his estate and cannot be the subject of an application for confirmation of grant.”
62. Regarding ownership of land, Section 24 (a) of the *Land Registration Act* provides that the registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto.
63. Further, Section 26 (1) on the other hand provides that the certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge save for the exceptions provided thereunder.
64. It is therefore upon the person who wishes the court to find otherwise to satisfactorily present evidence to the contrary. In this case, no titles or information regarding these parcels of land were brought before this Court and therefore, the status of the two parcels of land being Naivasha/Mwicingiri Block 3/13 and Naivasha/ Mwicingiri Block C/97 remains unknown to date.



65. Moreover, the Administrator has not listed in this Petition Naivasha/Mwiciringiri Block 3/13 and Naivasha/ Mwiciringiri Block C/97 as properties owned by the deceased.
66. The disputed parcels of land in Naivasha being Naivasha/Mwiciringiri Block 2/204 and Naivasha/ Mwiciringiri Block 2/205 are registered in the name of Kimatu Mutego who is a son of the deceased and who also died in the course of these proceedings.
67. From this record, it is noted that H. A. Omondi J (as she then was) issued Orders on the 23rd October, 2014 directing the Administrator of the Estate to make full disclosure of the Estate and in particular, the ownership of Naivasha/Mwiciringiri Block 2/205.
68. None of the said orders were complied with as no title and/ or information regarding these parcels of land were brought before this Court. In those circumstances, the status of the two parcels of land; Naivasha/Mwiciringiri Block 3/13 and Naivasha/ Mwiciringiri Block C/97 remain unknown to this Court.
69. The non-disclosure is compounded by the Administrator's averments that the deceased died while he was in the process of paying for the two parcels of land in Naivasha being; Naivasha/Mwiciringiri Block 2/204 and Naivasha/ Mwiciringiri Block 2/205 and that upon the death of Wamutego Kuria, the family teamed up and completed the purchase of the two parcels of land, with Kimatu Mutego paying for the survey fees.
70. Copies of payment receipts running between the time the deceased was alive up until after his death were annexed. These receipts neither show the parcels of land that the deceased was paying for nor the persons that were contributing the said money except for the survey fees that shows payment by Kimatu Mutego.
71. Further, the Administrator exhibited a handwritten arbitration decision dated 20th April, 2001, drafted by the chief and village elders where it was stated that the said Kimatu Mutego contributed Kshs. 3,634.35 while Wamutego Kuria, the deceased herein, contributed Kshs. 1,576.60 and thus one parcel of land to be given to the house of Kimatu Mutego while another to be taken by the family of Wamutego Kuria(Deceased) herein.
72. He also exhibited a report by John K. Ndungu who was the Liquidator of Nyamathi Farmers' Cooperative Society Ltd indicating that Wamutego Kuria was the sole registered member of the Cooperative Society hence the sole owner of all properties therein allocated . It further indicated that the costs of survey paid by Kimatu Wamutego be refunded by the family and the titles already issued to Kimatu Wamutego be cancelled and revert back to the Estate of the deceased.
73. The Administrator herein further alleged in his affidavit of 7th January, 2019 that the two parcels of land in Naivasha were fraudulent transferred to Kimatu Mutego and that the issue is pending before the National Land Commission. However, no evidence was tendered to support the allegations of fraud. During hearing the Administrator stated that no case was pending against the said Kimatu Mutego and there was no claim of cancellation of title before the Court.
74. In the circumstances and without any documents proving ownership of the said parcels of land, the allegation raised by the Petitioner/Administrator is not sufficient to show that the two parcels of land being Naivasha/Mwiciringiri Block 2/204 and Naivasha/ Mwiciringiri Block 2/205 belong to the Estate of the deceased.
75. The only properties free for distribution are the two parcels of land in Murang'a being Loc Kigio/216 and Loc Kigio 505 measuring 8.3 acres and 1.5 acres respectively.



76. From the material before this Court, the parties confirmed that the deceased initially lived in Murang'a on the two parcels of land before migrating to the Rift Valley due to the 1952 State of Emergency.
77. It is also indicated that he settled in Naivasha with 6 of his wives, leaving behind, one wife Watta Wamutego alone in the parcel of land in Murang'a. For avoidance of doubt, this Court has established that the deceased married Seven (7) wives and not Thirteen (13) wives as alleged and therefore, the distribution is in regard to the Seven (7) Houses.
78. It is evident that Watta Wamutego died in 1960 and in 1967, land adjudication was done and the deceased herein went back to Murang'a, divided the land into two and registered the two parcels of in his name before returning to Naivasha where he lived until his death in September 1968.
79. The Protestor argued that by leaving his grandmother in the Murang'a land, the deceased bequeath her the parcel of land and settled his other wives in the parcels of land in Naivasha. However, none of the parties informed this Court on what land parcel or parcels of land that the other wives of the deceased were settled. What they admitted is that Watta Wamutego lived in Murang'a uninterrupted before the filing of this Petition.
80. They also admitted that the deceased (Wamutego Kuria) died and was buried in Naivasha together with all his other wives. They however failed to indicate the land on which the deceased and his six (6) other wives were buried. They seem to be only interested in the parcels of land which are now registered in the name of Kimatu Mutego, which they also confirmed to be in exclusive occupation of Kimatu Wamutego family.
81. In absence of any other evidence, it can only be presumed that the said Houses were each settled in some piece of land hence their failure to return to Murang'a in their lifetime. The said wives are now dead. However, in the circumstances herein, it is only fair and equitable that the land in Murang'a be shared among the Seven (7) houses.
82. Though the Protestor confirmed that his father's family lived in the said Murang'a parcels of land and that his grandmother was buried in one of the said parcels of land, he did not state which title number of the parcel of land she was buried.
83. From the Search Certificates dated 23rd April 2023 and availed herein, the two parcels of Murang'a land being Loc. 1 /Kigio/ 216 and Loc. 1/Kigio/ 505 measuring 8.3 acres and 1.5 acres respectively make a total of 9.8 acres.
84. This Court also considers that Watta family has been living on the said land all along and their grandmother is buried there, but it cannot be justified that Watta family gets the whole 9.8 acres by themselves and neither can it be justified that the said properties be shared equally amongst all the Seven (7) Houses.
85. Equity demands that Watta family gets a larger portion of the said land and the rest of the land be shared equally amongst the other Six (6) Houses which have lived in Naivasha all along. In the circumstances, Watta family being the 2nd House should get a half of the total acreage of the two parcels of land while the other half is shared equally amongst the other Six (6) Houses which have been living in Naivasha all along.
86. To avoid unnecessary and costly disruption to Watta family, their permanent structures and Watta's grave be put into consideration as far as practicable when carrying out the subdivision.
87. In conclusion, the Estate of the deceased herein being 9.8 acres of land shall be distributed as follows:-



1. Watta Wamutego (2nd House) gets 4.9 acres to be shared equally amongst children of that house.
2. Each of the other Six (6) Houses being Gachuru Wamutego (1st House), Wanjiku Wamutego (3rd House), Munjiru Wamutego (4th House), Wanjiru Wamutego (5th House) , Wabu Wamutego (6th house) and Ndogo Wamutego (7th House) gets 0.8 acres to be shared equally amongst the children of the respective Houses.
3. A Certificate of Confirmation of Grant to issue accordingly and due to the nature of this matter, each party shall bear its own costs.

Right of appeal 30 days.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 5TH DAY OF MARCH,2025.

PATRICIA GICHOHI

JUDGE

Petitioner present together with other Beneficiaries

Ms Mwaniki for Njeri Njagua for the Protestor

Ruto, Court Assistant present

