



REPUBLIC OF KENYA



In re Estate of Lucy Muthoni Obat - (Deceased) (Succession Cause E067 of 2021) [2025] KEHC 6113 (KLR) (Family) (15 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6113 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY**

SUCCESSION CAUSE E067 OF 2021

SN RIECHI, J

MAY 15, 2025

IN THE MATTER OF THE ESTATE OF LUCY MUTHONI OBAT - (DECEASED)

BETWEEN

JOHN GICHIA 1ST PETITIONER

JANE NJOKI MUTHONI 2ND PETITIONER

AND

BARACK OBAT BLASTO OBJECTOR

RULING

1. The deceased Lucy Muthoni Obat died on 24.7. 2018 at Uzima Hospital. John Gichia filed Chamber Application dated 19.1.2021 seeking several orders. In his affidavit in support sworn on 19.1.2021 in paragraph 3 he stated:

That the deceased died intestate and left the following surviving her:

- a. Barack Obat Blasto (Spouse)
- b. Jane Njoki Muthoni (daughter)
- c. David Ngugi Obat (son)
- d. John Gichia (son)
- e. Mary Wanjiku (daughter)
- f. Peres Achieng Obat (daughter)
- g. Moses Kanyuira Obat (son)



h) Erick Karanja Obat (son)

2. A grant of Letters of Administration Intestate was issued on 9/8/2021 to Jane Njoki Muthoni and John Gichia. This grant was revoked by ruling dated 17.1.2022.
3. By Ruling dated 29.6.2022 the learned Judge Muchelule (as he then was) issued a grant of Letters of administration intestate jointly to
 1. Barrack Obat Blasto
 2. John Gichia
4. The two Administrators filed Summons for Confirmation. However, they would not agree on a common mode of distribution. 1st Administrator filed Summons for Confirmation and 2nd Administrator Affidavit of Protest together with their preferred mode of distribution signed by those of the beneficiaries who consent to their mode of distribution. Both administrators complied.
5. The 1st administrator Barack Obat Blastio testified that he knew the deceased as his wife. They married in 1985 and had 8 children.
 1. Jane Njoki
 2. Patrick Maina – Deceased
 3. John Gichia
 4. Mary Wanjiku
 5. David Ngugi
 6. Peris Achieng
 7. Moses Kanywera
 8. Eric Obat.
6. He testified that he had distributed the Property equally among the children. The children who agree with his proposed mode of distribution are:
 1. Peris Achieng
 2. Moses Kanywera

His proposed mode of distribution as hereunder:



Name	Description Of Properties	Share Of Heirs
Barrack Obat Blasto Jane Njoki Muthoni David Ngugiobat John Gichia Mary Wanjiku Peres Achieng Erick Karanja Moses Kanyuira	Plot No. B1 -268 Kayole Site & Service Scheme	In Equal Shares

7. John Gichia the 2nd Administrator testified that Lucy Muthoni Obat was married to Joseph Njoroge Karanja who died in 1979. They had 5 children. He is a biological son of Lucy and Joseph. Upon the death of his biological father in 1979, the 1st administrator came and stayed with their mother the deceased for 33 years until she died in 2018. The deceased and Obat had 2 children Peris Achieng, Moses Kanywera and Eric Karanja. In total he testified that the deceased left 7 children.

1. Jane Njoki
2. John Gichia
3. Peris Achieng
4. Mary Wanjiku
5. Moses Kanywera
6. Eric Karanja.
7. David Ngugi

8. He testified that he has filed his preferred mode of distribution which is supported by:

1. Jane Njoki
2. Mary Wanjiku
3. David Ngugi
4. Eric Karanja

9. His proposed mode of distribution is as hereunder:



DEscription Of Property	Beneficiaries	Share Of Heir
Komarock Phase 5b Door 23	Jane Njoki Muthoni John Gichia Barrack Obat Blasto Peres Achieng Erick Karanja Moses Kanyuira David Ngugiobat	To Be Shared Equally.
Dandora Phase 5B Plot No. E1903	Jane Njoki Muthoni John Gichia Mary Wanjiku Davidngugi Obat	To Be Shared Equally
Plot No. 94 Umoja Phase 11 Zone 8	Jane Njoki Muthoni John Gichia Mary Wanjiku Davidngugi Obat Peres Achieng Erick Karanja Moses Kanyuira	To Be Shared Equally
Plot No. BI-268 Kayole Site & Service Scheme	Davidngugi Obat	Absolute

10. Under the Law of Succession Act, the probate court is under duly in a succession cause in respect of the deceased undertake the following duties:
1. Confirm the death of deceased by production of death certificate.
 2. Identify the beneficiaries/dependants of deceased
 3. Ascertain the free property comprising the estate of the deceased.
 4. Distribute the estate of the deceased to the beneficiaries.
11. In these proceedings the fact of Lucy Muthoni Obat having died is admitted and proved by production of death certificate.
12. From the evidence on record, the deceased was earlier married to Joseph Njoroge Karanja who died in 1974. The deceased then a widow was then married to Barack Obat Blasto in 1985. They stayed together for 33 years and went ahead to sire children together. Though initially contesting that Barak was widower, Muchelule J. in ruling dated 2nd day of December, 2024 found Barak to be a widower.



After staying together for 33 years and having children together Barak would not be anything but a husband of the deceased and beneficiaries of her estate.

13. The alleged estate of deceased comprises of:
 - a. Komarock Phase 5B Door, 23
 - b. Dandora Phase 5 Plot No. E 1903
 - c. Plot No. 94 Umoja Phase 11 Zone 8
 - d. Plot No. BI-268 Kayole site and service scheme.
 - e. Vehicle KCJ 315Z
 - f. Ruiru/Kiu Block 13/942 Mwild Certificate No. 1090
 - g. Mathare Slums upgrading HI Door Nos. 1-17
 - h. Mathare North area 3 Plot 116B.
14. The 2nd Administrator and Protestor indicates in the documents filed that the deceased had the following properties which formed her estate.
 5.
15. In identifying the estate of the deceased available for distribution the court must be satisfied with the properties named are free properties. Free Property of the estate refers to property that the deceased was legally competent freely to dispos of and in respect of which his interest has not been determined by death. This can be done by production of title documents in respect to real property, shares in company, Bank balances in respect to funds in respect of the funds in banks, shareholding in trade companies:
16. In this cause, 2nd Administrator/Protestor admitted that he did not have title documents in respect to all the properties. Indeed this issue had been subject of the application before Muchelule J. who by ruling dated 15.6.2021 stated:

Secondly, under section 3 of the Law of Succession Act (Cap 160) upon the death of a deceased person his estate means his free property when he was living. His free property refers to the property that the deceased was legally competent freely to dispose of it and in respect of which his interest has not been terminated by his death. Where administrators of the estate of the deceased say that a certain property belonged to the deceased and there is a third party laying claim to it, such dispute has to be determined by the Environment and Land Court under section 13 of the Environment and Land Court and Article 162 (2) (b) of the Constitution.

Thirdly, it is not in dispute that upon the death of the deceased it was incumbent upon her beneficiaries to petition a succession court, This is what led to the filing of the present cause. Now that the respondent earlier sued the applicants at the subordinate court claiming Ruiru/Kiu Block 3/942 and the Mathare Slums and Mathare North properties, which the applicants claim are part of the deceased's property, in terms of section 47 of the Act and rule 73 of the Probate and Administration Rules and also under sections IA and 1B of the Civil Procedure Act and Article 159 of the Constitution, I direct that the parties shall proceed with the subordinate court case over the three properties. In the meantime, the present succession cause shall proceed but without reference to those three properties. I consider



that under the Law of Succession Act, partial confirmation is allowed. If the subordinate court eventually decides that the three sets of properties belong to the deceased, they shall become available for distribution to the beneficiaries of the deceased.

Name	Description Of Properties	Share Of Heirs
Barrack Obat Blasto Jane Njoki Muthoni David Ngugiobat John Gichia Mary Wanjiku Peres Achieng Erick Karanja Moses Kanyuira	Plot No. B1 -268 Kayole Site & Service Scheme	In Equal Shares

17. In view of the decision by Muchelule J. (as he then was) the only properties available for distribution is Plot No. B1 -268 Kayole Site & Service Scheme as the other properties are subject to litigation in Magistrate's Court. I hereby distribute the available property as follows:

Name	Description Of Properties	Share Of Heirs
Barrack Obat Blasto Jane Njoki Muthoni David Ngugiobat John Gichia Mary Wanjiku Peres Achieng Erick Karanja Moses Kanyuira	Plot No. B1 -268 Kayole Site & Service Scheme	In Equal Shares

DATED AT NAIROBI THIS 15TH DAY OF MAY, 2025

S. N. RIECHI

JUDGE

