



REPUBLIC OF KENYA



**In re Estate of James Njenga Karume (Deceased) (Succession Cause
3102 of 2013) [2025] KEHC 8331 (KLR) (Family) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8331 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 3102 OF 2013
PM NYAUNDI, J
JUNE 16, 2025**

RULING

1. The deceased herein died on 24th February 2014. Grant of Probate with written will was issued to James Raymond Njenga, Stephen Ndungu Karau and Francisca Wanjiku Kahiu on 5th Day of April 2014. The Executors filed Summons for Confirmation of Grant dated 19th June 2014. Objections were filed and the matter proceeded to hearing. At the conclusion of the hearing, in lieu of filing submissions parties engaged in negotiations culminating in consent dated 9th February 2025. The consent was executed by all the known beneficiaries of the estate save for the protestors (who are the spouse and daughter of the late Joseph Karume Njenga - a son of the deceased).
2. The ruling herein therefore pertains to the summons for confirmation of grant dated 19th June 2014. The Affidavit of Protest is sworn on 16th May 2024 alongside further affidavit sworn on 24th March 2025. The basis of the protest is that
 1. The protestors are the legal representatives of the Estate of Joseph Karume Njenga by virtue of grant of letters of Administration Ad Litem
 2. The protestors are opposed to the mode of distribution of the estate as proposed in the consent as it -
 - a. Does not compensate the family of Joseph Karume Njenga for the sale of LR No. 2019/5236 in South C Estate, Nairobi County. The property was under Karume Investment Limited. It is submitted that the property was sold by the Executors for Kshs 79 million. It is averred that the at the mediation meeting of 16th to 18th September 2018, the refund to the family of the sale proceeds of the South C property were agreed upon.
 - b. discriminates against the protestors in the distribution of the estate.



- c. Purports to determine the beneficiaries of the estate of the deceased Joseph Karume Njenga without reference to the protestors, the protestors contest the inclusion of Kenneth Wathuge Karume and Jamal Karume Omori as beneficiaries of the estate of Joseph Karume Njenga.
 - d. It fails to address the exclusion from the various boards of companies affiliated to the deceased, and yet other members of the family are seating on the boards.
3. The Executors have filed reply in opposition to the protest vide affidavit sworn by Stephen Ndung'u Karau on 25th February 2025. Grace Njenga Karume has filed grounds of opposition dated 25th February 2025 and Samuel Wanjema Karume (a beneficiary) has sworn replying affidavit on 27th February 2025.
 4. The Executors and the beneficiaries who have signed the consent of 9th February 2025 are in agreement that the protest ought to fail as it is only the protestors (representing one beneficiary out of ten) who have declined to sign the consent of 9th February 2025.
 5. Further it is submitted that the protest is hinged on matters that are extraneous to the estate-
 1. The dispute on the beneficiaries of the estate of Joseph Karume cannot defer the finalisation of the distribution of the estate of the deceased herein.
 2. The issue on the reimbursing the family of Joseph Karume by the estate for the sale of the house at South C has not been agreed upon. The House at South C was not part of the Estate at the time of its sale and that therefore the estate cannot be liable for refund.
 3. In any event the protestors were not provided for under the will and in the interests of justice, the family has conceded to provide for the family of Joseph Karume.
 6. Pursuant to directions of the Court, the protestors, Executors, Grace Karume (Spouse of the deceased) and Samuel Karume have filed their respective submissions.
 7. Having considered the respective pleadings and submissions on record, along with the authorities cited, I discern the issue for determination to be-
 1. Whether the Grant herein should be confirmed in terms of the Consent dated 9th February 2025 and Schedule of Distribution of assets of the estate of even date.
 2. Who should pay costs?
 8. At the outset, I observe that there is no objection to the confirmation of the grant to the 3 executors. Accordingly, the Grant to the 3 executors, James Raymond Njenga, Stephen Ndungu Karau and Francisca Wanjiku Kahi is confirmed. The protest is focused on the distribution of the estate on 2 grounds, the first, identification of the beneficiaries of the Estate of the Joseph Karume and secondly the entitlement of the Estate of Joseph Karume.
 9. On the 1st Issue, parties are agreed that the contestation on the rightful beneficiaries of the estate of Joseph Karume shall not be determined in this cause. The mandate of this court is limited to determining the beneficiaries of the Estate of James Njenga Karume and it is common ground that the Estate of Joseph Karume Njenga is a beneficiary. The protestors have secured grant of letters of administration ad litem, in order to distribute the Estate they will require to take out a Grant of Letters of Administration of Estate, on this I agree with the decision of Hon. Mutai J on the limitations of Grant of Letters of Administration Ad Litem In re Estate of Swaleh Karama Hantoosh (Deceased) (Succession Cause E012 of 2023) [2024] KEHC 6741 (KLR) (24 May 2024) (Ruling).



10. The second challenge to the proposed mode of distribution is that it is discriminatory to the estate of Joseph Karume Njenga. The specifics are that no provision has been made to compensate the estate for the sale of the South C property. It is agreed that the said property was under Karume Investments Limited. I have seen the minutes of the family retreat and the mediation agreement. I note that the issue of the reimbursement for sale of the South C house was one of the issues noted as requiring further discussion in the minutes signed 19th October 2018. This issue was therefore not resolved. It is not disputed that it falls under Karume Investment Limited and therefore not part of the Estate. It is not available for distribution under the estate, it is not a liability of the Estate.
11. Second is whether the failure to appoint the protestors as directors in company's affiliated to the deceased ought to be determined prior to the distribution of the Estate. As has been correctly stated, this Court's mandate does not extend to appointment of directors to Companies. The protestors if aggrieved must present this before the rightful forum as provided for under the Articles and Memorandum of Association of the respective companies.
12. The protestors are also opposed to the mode of distribution alleging that the same is discriminatory against them. Section 107(1) of the *Evidence Act* states that: -
Whoever desires any court to give judgment as to any legal right or liability dependent on existence of facts which he asserts must prove that those facts exist.
13. Section 108 of the *Evidence Act* also stipulates as follows: -
The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.
14. Further, Section 109 of the *Evidence Act* stipulates that:-
The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.
15. In addition, Section 110 of the *Evidence Act* provides that:-
The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.
16. Nothing has been presented to demonstrate that indeed the distribution as proposed is so unequal as to justify interference by the Court. The governing provisions to guide the Court are Sections 26, 27, 28 and 29 of the *Law of Succession Act*. The Court is required to ensure that reasonable provision has been made for the dependants of the estate of the deceased having in mind the considerations enumerated under Section 28 of the Act.
17. The Executors have as required by law made provision for the beneficiaries of the estate who are the children and spouse of the deceased (including those who have since died.) The distribution also considers the wishes of the deceased as expressed in his will.
18. In light of the foregoing I will dismiss the protest and confirm the grant on the following terms-
 1. Grant issued to James Raymond Njenga, Stephen Ndungu Karau and Francisca Wanjiku Kahiu on 5th Day of April 2014 is hereby confirmed.
 2. The estate will be distributed in accordance with Consent of 9th February 2025 and schedule of distribution of assets of even date with the following variation to paragraph 9-
 - a. Estate of Joseph Karume Njenga



1. Kenya Shillings 30 Million
 2. 1/10th of Shares in Companies which are listed on any recognised stock exchange in Kenya and abroad to be held subject to the provisions of the *Companies Act, 2015*
 3. 10% of the proceeds emanating from the sale of shares held or registered in the name of James Njenga Karume in Kiguthe Farmers (K) Limited or its successor in Title
 4.
 - (1) one Share in Forest Road Flats Limited (C. 13799) or its successor in title
 5.
 - (1) Share in Jacaranda Holdings Limited (CPR/ 2011/ 49566) or its successor in title.
 6. 25% of the shareholding of the deceased in Bamburi Cement PLC
 7. Kshs 1m being Cash in Lieu of Laikipia Properties
3. The Executors will finalise transmission of the Estate within 6 Months
 4. Each party will bear their own costs

It is so ordered.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 16th DAY OF JUNE, 2025.

P. M. NYAUNDI

HIGH COURT JUDGE

In the presence of:

Peter Munge for Lucy Karume, Albert Karume, Samuel Karume (beneficiaries)

Kariuki holding brief for Ms. Onidaru for Executors

Cohen Amany and Ms Muthoni for Grace Karume

Ms. Wanjiru holding brief for Mr. Gitau for Henry Waireri

Mr. Oloa for Teresia Njeri Karume and Morris Wagachre Karume Beneficiary

Ms. Mwangi holding brief for Kago for Estate of Jane Mukuhi Matu

Fardosa Court Assistant

