



REPUBLIC OF KENYA



**In re Estate of Jonathan Njenga (Deceased) (Succession Cause
378 of 1997) [2025] KEHC 8132 (KLR) (Family) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8132 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 378 OF 1997
HK CHEMITEI, J
JUNE 12, 2025
IN THE MATTER OF THE ESTATE OF JONATHAN NJENGA (DECEASED)**

BETWEEN

SALOME NJAMBI NJENGA 1ST APPLICANT

ESTATE OF ANN WAIRIMU TCHORERET 2ND APPLICANT

AND

JANE WANJIKU NJENGA 1ST RESPONDENT

LEWIS MUCHENE NJENGA 2ND RESPONDENT

JULIA WANGU WAWERU 3RD RESPONDENT

RULING

1. This ruling relates to the application dated 1st August, 2023 filed by Salome Njambi Njenga seeking for Orders That:-
 1. Subject to the honourable court reviewing and/or varying its orders made on 24th February, 2023 with a view of clarifying that the administrators accounting of their handling of the estate should be from 2006 and not 2016, the administrators be cited for contempt of court and appropriate sanctions meted out against them for their failure to give a full and accurate account of the estate as ordered by the court vide its ruling delivered on 24th February, 2023.
 2. Further and/or in the alternative, the court be at liberty to make the following orders against the administrators:-
 - i. The administrators do within fourteen (14) days of the court order or such other period as the honourable court shall deem appropriate do surrender to the Applicants



through their advocates on record the original titles and all relevant transfer forms duly executed by the administrators and in favour of the Applicants and any other relevant documents (s) in respect of the Applicant's share of LR No. 3564/ 17 and LR No. 3564/ 18.

- ii. The administrators do within a period of fourteen (14) days or such other period as the honourable court shall deem appropriate do comply with the orders issued by the court in its ruling of 17th October, 2021 in respect of the one (1) acre land now known as LR No. 3564/19 which is a sub – division of the Redhill Farm (LR 3564/2) and in default of which, the administrators do forthwith and unconditionally surrender to the Applicants the title documents thereof and the Applicants be at liberty to source and sell the said portion.
 - iii. In lieu of the administrators failure to account for some of the estates assets as directed by the court vide its ruling of 24th February, 2023 and in th alternative to prayer 2 (ii) hereinabove, the Applicants be compensated for the lost share (s) in the other estate's assets with the said one (1) acre LR No. 3564/19) and/or further portions from the administrators shares in Redhill farm and in particular from their portions numbers LR No. 3564/14 and 3564/15 all sub – divisions of LR No. 3564/ 12.
3. The costs of this application be paid personally by the administrators and not the estate.
 4. In the interests of justice, the honourable court be at liberty to make such other or further orders as it shall deem appropriate.
2. The application is based on the grounds thereof and supported by affidavit sworn by Salome Njeri on 1st August, 2023.
 3. She avers inter alia that she is acting on her own behalf and on behalf of the 2nd Applicant as the administrator of her late sister Ann Wairimu Tchoreret's estate. She swore an affidavit in response to a court order from 24th February, 2023 which required the estate administrators to give a full and accurate account of how they have managed the estate.
 4. She deponed that despite this, an affidavit sworn by Lewis Muchene Njenga (2nd administrator) on 12th April, 2023 allegedly failed to comply. He claimed that certain estate assets - specifically Plot No. 214 Mtwapa Scheme 452, Chania/Ngorongo/1037 and shares in Bata Shoe Company; no longer exist, without providing evidence or details of their disposal. These assets are listed in the confirmed grant and thus still considered part of the estate.
 5. The Applicant argues that the administrators should account from either 1992, when the deceased passed away, or at least from 1997 when the grant was issued rather than from 2016 as mistakenly stated in the court ruling. She requests the court to correct this and set the accounting period starting from 2006 when the grant was confirmed.
 6. She further challenges the administrators' handling of specific estate properties namely Mtwapa Scheme 452 & Chania/Ngorongo/1037 as no documentation has been provided to explain their disappearance. Evidence suggests they were sold in 2006, but this has been concealed.
 7. Parcel number Dagoretti/Uthiru/283 and 324 was alleged to have been distributed to their mother without proof and since she only held a life interest, the properties should revert to the children.
 8. As regards parcel number L.R. No. 3564/2 (Redhill Farm) measuring 40 acres, 37.48507 acres were allegedly distributed, but the Applicants have received no titles. The remaining 2.5 acres include 1 acre



supposedly set aside for survey and legal fees, which the Applicant claims is an unjustified and inflated expense. The rest is said to have been used for infrastructure without proper documentation.

9. No accounting has been provided for the shares in Bata Shoe shares as provided in orders of both 24th February 2023 and 17th October 2021.
10. She therefore seeks that the administrators be held accountable and possibly surcharged or removed and compensation in the form of a share from the administrators' own portions of Redhill Farm, particularly the 1 acre mentioned in the 2021 ruling. She also seeks enforcement of the earlier court orders to ensure justice and final distribution, given the case has dragged on for over 31 years since the deceased's death in 1992. The Applicant stresses that continued defiance undermines the authority of the court and the process must end without further delay.
 1. Top of Form
 2. Bottom of Form
11. The application is opposed vide replying affidavit sworn by Lewis Muchene Njenga on 1st September, 2023.
12. He averred that the administrators have already provided a full and accurate account of the estate's distribution in compliance with the court's ruling delivered on 24th February, 2023. Therefore, the Applicants' claims of non-compliance are entirely untrue.
13. That the administrators currently hold parcels LR 3564/17 and LR 3564/18 (Redhill Farm) in trust for the Applicant, who has failed to supply the necessary documents for the property transfer. Contrary to the Applicants' statements, it is the duty of the administrators to hold any undistributed assets in trust until the rightful beneficiaries complete the required procedures for transfer. The estate has been fully and properly distributed as per the confirmed grant. All beneficiaries have received their respective shares, and if the Applicants claim certain assets were omitted, they should seek an amendment to the grant upon providing proof of those assets' existence.
14. He went on to depone that there was no unaccounted portion of LR No. 3564/2 (Redhill Farm), as demonstrated in the detailed distribution report dated 12th April, 2023. The Applicants are prolonging litigation unnecessarily by raising issues that have already been resolved. The administrators have carried out the distribution faithfully and in accordance with the confirmed grant. The suggestion that they have interfered with the estate's administration is unfounded, especially since a confirmed grant officially appoints them as administrators. Therefore, the claim of intermeddling is false.
15. That the Applicants' demand for an account of assets that did not exist at the time the grant was issued is not legally sustainable. The administrators can only be held responsible for the assets explicitly listed in the grant and within their knowledge. The court's ruling of 24th February, 2023 affirms this position.
16. The Applicants have filed written submissions dated 30th January, 2024 placing reliance on the following:-
 - a. In Kakamega HCCC Cause No. 88 of 2011: *Estate of Simoto Omwenje Isaka (Deceased)* [2020] eKLR the court held as follows: "... the only provisions of the Civil procedure Rules imported to the Law of Succession Act are orders dealing with service of summons, interrogatories, discovery, inspection, consolidation of suits, summoning and attending witnesses, affidavits, review and computation of time. Clearly, Order relating to review is one of the Civil Procedure Rules imported into succession practice by rule 63 of the Probate and Administration Rules."



- b. In Garissa ELC Case No. 20 of 2018 *Khalif Sheik Adan vs The Honourable Attorney General* where the court held that, “A review be claimed or asked merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law which states in the face without any elaborate argument being needed for stabilizing it. It may be pointed out that the expression ‘any other sufficient reason’ used in Order 47 Rule 1 means sufficiently analogous to those specified in the rule.”
17. The Respondents have filed written submissions dated 26th March, 2024.

Analysis And Determination

18. I have gone through the application, the responses thereto and the rival submissions as well as the courts record.
19. There are two certificates of confirmation of grant on record. One is dated 18th January, 2016 and the other is dated 29th November, 2006 and amended on 29th June, 2008.
20. The certificate of confirmation of grant dated 29th November, 2006 indicated that Salome Njambi Njenga and Anne Wairimu Tchoreret would get 5 acres each of L. R. No. 3564/2 – Redhill. It, further, indicated that Plot No. 214, Mtwapa Scheme 452 would be divided in three equal parts in favour of Lewis Muchene Njenga & Rachael Wanjiru Muchene (jointly), Edwin Gitau Njenga & Julia Wangu Njenga (jointly). The shares at East Africa Bata Shoe Company were indicated to be shared to: Jane Wanjiku Njenga (666 shares), Lewis Muchene Njenga & Rachael Wanjiru Muchene – jointly (667 shares) and Edwin Gitau Njenga & Julia Wangu Gitau – jointly (667 shares).
21. The grant dated 29th November, 2006 was cancelled vide ruling delivered on 18th December, 2015 by Judge W. Musyoka who ordered a fresh distribution of the deceased’s estate and issuance of a fresh certificate of confirmation of grant be issued as follows: L. R. No. 3564 – Redhill to be shared equally between Jane Wanjiku Njenga, Lewis Muchene Njenga, Estate of Edwin Gitau Njenga, Salome Njambi Njenga and Anne Wairimu Tchoreret. Plot No. 214, Mtwapa Scheme 452 to be shared equally to Jane Wanjiku Njenga, Lewis Muchene Njenga, Estate of Edwin Gitau Njenga, Salome Njambi Njenga and Anne Wairimu Tchoreret. Dagoretti/ Uthiru/283 and Dagoretti/Uthiru/324 to be allocated to Jane Wanjiku Njenga absolutely. Shares in East Africa Bata Shoe Company to be shared equally between Jane Wanjiku Njenga, Lewis Muchene Njenga, Estate of Edwin Gitau Njenga, Salome Njambi Njenga and Anne Wairimu Tchoreret.
22. The account of the distribution of the deceased’s estate dated 12th April, 2023 and drawn by the administrators/Respondents advocates on record, indicates that the assets available for distribution are Redhill Farm L.R. No. 3564/2 measuring approximately 40 acres, Dagoretti/ Uthiru/ 283 and Dagoretti/ Uthiru/324. Redhill Farm, L. R. No. 3564/2 has been subdivided into 5 equal portions totaling to 37. 48507 acres.
23. It is averred that approximately 1. 5 acres is to be sold to cater for survey and legal expenses and the remaining approximately 1. 5 acres was to be used for roads, power way leave and riparian land. The land aforementioned is indicated to have been distributed as follows: Dagoretti/Uthiru/283 and Dagoretti/Uthiru/ 324 allocated to Jane Wanjiku Njenga absolutely, in line with the ruling of 18th December, 2015.
24. Redhill Farm, L.R. No. 3564/14, 15, 16, 17 and 18 have been divided into 5 equal portions measuring 3. 034 hectares each. These have been allocated as follows: Jane Wanjiku Njenga - L.R. No. 3564/14, Julia Wangu Waweru – L.R. 3564/15, Lewis Muchene Njenga – L.R. No. 3564/16, Jane Wanjiku



Njenga & Lewis Muchene Njenga as trustees of Salome Njambi Njenga and the Estate of the late Ann Wairimu Tchoreret – L.R. Nos. 17 and 18.

25. Apparently, there is no account of Plot No. 214, Mtwapa Scheme 452, Mtwapa Scheme 452 and the shares at East Africa Bata Shoe Company.
26. However, there is a green card on record, for L.R. No. Kilifi/ Mtwapa/ 214, showing that the title deed was registered in the names of Jane Wanjiku Njenga, Lewis Muchene Njenga and Edwin Gitau Njenga on 1st February, 2007 on account of LR. 19 Succession Cause No. 378 of 1997 and thereafter, it was registered in the names of Francis Osare Onserio and Anne Anyango Onserio on 6th February, 2007 on account of a sale worth Kshs.300, 000/=.
27. There is however nothing on record to show that the administrators made an attempt to find out the status of the shares in East Africa Bata Shoe Company Ltd, to back up Lewis’s claim that the shares were not available for distribution. There is also no proof of the subdivisions done on the 1. 5 acres and the sale of the remaining 1. 5 acres for use in survey and legal fees.
28. Having summarized the above position on record I think it is wise to have the parties especially the Respondents produce evidence backing up what they have done or not. This will also give the Applicants time to counteract what they think has been unfair to them. So much as can be seen has taken place in the estate. However, it appears that there are grey areas as pointed out above.
29. Consequently, and before making any decision to allow the Applicants application or not it is necessary that the matter is referred, which I hereby do to the Deputy Registrar of this court and the parties especially the Respondent to provide an in-depth record of what they have done with the estate in terms of complying with the confirmed grant. The parties be at liberty to appear with their counsels on record.
30. The Deputy Registrar shall thereafter provide a comprehensive report on how each of the estate’s properties have been dealt with without compromising the decisions made herein and in particular the last grant issued by the court.
31. The Deputy Registrars report be submitted within 21 days from the date herein.

DATED SIGNED AND DELIVERED VIA VIDEO LINK THIS 12TH DAY OF JUNE 2025.

H.K. CHEMITEI

JUDGE

