



REPUBLIC OF KENYA



**In re Estate of the Late Kariuki Kanyotu (Deceased) (Probate & Administration
E90 of 2005) [2025] KEHC 11056 (KLR) (28 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11056 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
PROBATE & ADMINISTRATION E90 OF 2005
RN NYAKUNDI, J
JULY 28, 2025**

IN THE MATTER OF THE ESTATE OF THE LATE KARIUKI KANYOTU (DECEASED)

IN THE MATTER OF

JAMES KINUTHIA KARIUKI 1ST PETITIONER

JOHANA KAMAU 2ND PETITIONER

RULING

Coram: Before Justice R. Nyakundi

1. What is pending before this court for determination is an application dated 9th day of July 2025 seeking the following orders:
 - a. Spent
 - b. That this honorable Court be pleased to reinstate this succession cause the same having been dismissed for want of prosecution on 26th May 2025
 - c. That costs of this application be in the cause.
2. The Application is based on the grounds on the face of it among others:
 - a. That this matter came up for mention on 20th April 2022
 - b. That the matter was dismissed for want of prosecution
 - c. That the applicants were not aware of the said date when the matter was dismissed
 - d. That the mention notice which was sent to them through the office of the Chief did not reach to the applicants on time
 - e. That it is until recently when they got the said notice from the Chief and the matter had already been dismissed



- f. That the applicants are keen on finalizing this matter to a conclusion
3. The Application is supported by the annexed affidavit of James Kinuthia Kariuki who avers as follows:
- a. That I am male adult of sound mind and therefore competent to swear this affidavit and state as follows;
- b. That I am the 2nd applicant herein and I swear this affidavit on my behalf and that of the 1st Applicant who has authorized me to do so
- c. That this matter came up for mention on 26th May 2025
- d. That consequently, the matter was dismissed for prosecution
- e. That the mention notice was sent to them through the office of the Chief but the same did not reach us on time.
- f. That by the time we learnt of the said notice, the matter had already been dismissed
- g. That we had absolutely no reason to neglect to attend court on 26th May 2025 had the notice reached us on time
- h. That I am aware that this matter was filed over twenty years ago but the delay has been caused by some beneficiaries who have been away from the country
- i. That we are keen on finalizing this matter to a conclusion and all the beneficiaries have agreed on the mode of the distribution of the estate of the deceased
- j. That it is the interest of justice that this cause is reinstated

Decision

4. As a consequence of the above in terms of section 1(A), 1(B), 3, 3(A) of the [CPA](#) as read with Rule 73 (1) of the [Probate Administration Rules](#), the succession cause be and is hereby reinstated and the same be fixed for pre-trial conference on 16th September 2025 before court 3 session Judge Ominde J.

GIVEN UNDER MY HAND AND SEAL OF THIS COURT THIS 28TH JULY 2025.

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R. NYAKUNDI

JUDGE

