



REPUBLIC OF KENYA



**In re Estate of the Late Njeri Tara Das (Deceased) (Succession Cause E123 of 2024) [2025] KEHC 10770 (KLR) (23 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10770 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE E123 OF 2024**

**PN GICHOHI, J**

**JULY 23, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE NJERI TARA DAS (DECEASED)**

**AND**

**IN THE MATTER OF AN APPLICATION TO STRIKE OUT THE PETITION**

**BETWEEN**

**ASHOK ATMARAM RAMCHANDANI ..... APPLICANT**

**AND**

**SYLVIA SUSAN GATHONI SANG ..... RESPONDENT**

**RULING**

1. The Applicant filed the Summons dated 8<sup>th</sup> August, 2024, brought under Section 66 of the [Law of Succession Act](#) Chapter 160 Laws of Kenya, Rule 73 of the [Probate and Administration Rules](#) and Article 159 (2)(a) of the [Constitution](#), seeking for Orders:-
  1. Spent.
  2. The Petition be struck out.
  3. This Honourable Court be pleased to grant any other and further Order it deems fit in the circumstances.
  4. The costs of the Application be provided.
2. The application is based on the grounds on the face of the Summons and supported by the Affidavit of the Applicant sworn on even date. The Applicant states he is the widower of the late Njeri Tara Das, who passed away on 4<sup>th</sup> January, 2022 and that since her passing, he has not filed a succession cause for



the jointly owned properties, specifically Njoro/Ngata Block 1/374, Njoro/Ngata Block 1/375, And Njoro/Ngata Block 1/376.

3. However, on 25<sup>th</sup> July, 2024, he was served with a Petition for Grant of Letters of Administration regarding his late wife's estate by his step-daughter, Sylvia Susan Gathoni Sang, the Respondent herein.
4. His case is that although, his deceased wife was survived by him, Sylvia Susan Gathoni Sang (the Respondent) and Fiona Wanjiku Avinash, the Petition was filed without his knowledge, authority or consent yet he had never declined to petition for Letters of Administration, thus making the filing of the current Petition, which excluded his participation and was processed against his wishes as the surviving spouse, unjustified.
5. He contends that upon inquiring from the deceased's other dependant, namely, Fiona Wanjiku Avinash, he learnt that she was also not a party to the process, and the signature appended against her name is not hers. He added that the Respondent has not communicated with him or explained her unilateral decision to file the Petition.
6. Further, he states that in the Petition, the Respondent has included Title No. Nakuru/Municipality Block 5/42 which is his personal and exclusive property and has no connection to his deceased wife's estate and therefore, its inclusion would cause him irreparable loss.
7. He depones that the original documents, including the Certificate of Marriage, Certificate of Death, and Certificates of Lease for Njoro/Ngata Block 1/374, Njoro/Ngata Block 1/375, Njoro/Ngata Block 1/376, And Nakuru/Municipality Block 5/42, were missing causing him to report to the Police who issued him with a Police Abstract.
8. However, upon obtaining a Police Abstract, he learnt that the Respondent was in possession of these documents which she declined to return them to him until 5<sup>th</sup> August, 2024, when she returned them through her lawyer's intervention.
9. The Applicant describes the Respondent as rude thus making it difficult to obtain information or discuss the withdrawal of the Petition to pave the way for an all-inclusive and structured process initiated by him. He views the Respondent's unilateral decision and actions as indicative of ill motives detrimental to him and the entire estate, thus deeming her unfit to be an administrator, even though she is entitled to be a beneficiary.
10. Further, he states that efforts to resolve the matter through a local priest to encourage the Respondent's withdrawal of the Petition have been unsuccessful due to her lack of cooperation.
11. He maintains that his wife's estate cannot be solely administered by the Respondent as long as he is ready and willing to participate in a more structured and inclusive process as the surviving spouse. Moreover, that he has not been cited for failing to take out Letters of Administration, which could justify the Respondent's unilateral and un-procedural actions.
12. Further, He also stated that it has become difficult to agree with the Respondent to synchronize as joint administrators, especially since he has no intention of excluding her as a beneficiary. He also notes that it would be impossible to distribute his late wife's estate without the original title documents. He urged this Court to strike out the Petition, particularly because his personal property have been included without justification.
13. He believes the Respondent will not suffer prejudice as she has not demonstrated his refusal to petition for Letters of Administration or his intention to exclude her as a beneficiary. On the contrary, that if the Petition is not struck out, he stands to suffer irreparable harm due to the inclusion of his personal



property (Title No. Nakuru/Municipality Block 5/42) and the Respondent's unilateral filing of a Petition lacking his or Fiona's signature.

14. He is also apprehensive that the matter may be gazetted and a Grant of Letters of Administration issued, incorporating his erroneously included personal property through a process from which he has been substantially excluded.
15. The Respondent opposed the Application by her Replying Affidavit sworn on 21<sup>st</sup> October, 2024 where she stated that terms application herein an abuse of the court process and hence for dismissed with costs. She however clarifies that the Applicant is her father, and the deceased, Njeri Tara Das, was her biological mother, a fact she claims the Applicant is attempting to conceal.
16. The Respondent stated that since her mother's death, the Applicant has been reluctant to file for Letters of Administration for the estate despite multiple pleas. She further alleges that the Applicant is in the process of starting another family, which necessitated the expedited handling of this cause.
17. It is her case that striking out the petition is not the most appropriate legal action. Instead, the Applicant can apply to be a co-administrator or file an affidavit of protest concerning any properties he believes were wrongly included in the cause.
18. In a rejoinder vide a supplementary Affidavit sworn on 30<sup>th</sup> October, 2024, the Applicant states that he is the surviving spouse of the deceased, Njeri Tara Das, and therefore, by law, he has the first priority to administer her estate. He emphasizes that he has not renounced his right to administer the estate, nor has he been cited for failing to take out a grant.
19. He asserted that the Respondent, Sylvia Susan Gathoni Sang, deliberately misled the court by concealing the fact that he is her biological daughter. Further that she took crucial estate documents such as; Certificate of Marriage, Certificate of Death, and several Certificates of Lease, without permission, which documents were only recovered by him after he filed a police report for theft, and the Respondent, who had them in her possession, only surrendered them to his advocates on 5<sup>th</sup> August, 2024, after being pressured.
20. The Applicant accuses the Respondent of unilaterally filing the petition without his knowledge, authority, or consent, and including his exclusively owned property, Nakuru/Municipality Block 5/42, in the estate. He maintained that this property does not form part of the deceased's estate and also that the Respondent is not fit to administer the estate due to her negative attitude, concealment of material facts, and disregard for the law.
21. He also reiterated that Fiona Wanjiku Avinash, whose name was included in the petition, informed him that she was not consulted and her signature on the documents was not authentic. The Applicant states that he has always been willing to initiate an inclusive succession process, ensuring all beneficiaries, including the Respondent, are involved. On that basis, he sought the striking out of the current petition to facilitate a proper and inclusive administration of his late wife's estate.
22. On 8<sup>th</sup> November, 2024, the Applicant further filed a Preliminary Objection dated 4<sup>th</sup> November, 2024, arguing that:-
  1. Title Number Nakuru/Municipality Block 5/42 included in the cause is and has always been the Applicant's sole property.
  2. Titles Numbers Njoro/Ngata Block 1/374, Njoro/Ngata Block 1/375 and Njoro/Ngata Block 1/376 included in the cause are the Applicant's property as the sole surviving joint owner



following the death of his wife who was a joint owner, pursuant to Section 60 of the [Land Registration Act](#), 2012.

3. This Honourable Court lacks jurisdiction as per the provisions of Sections 60, 91 (8) and 93 of the [Land Registration Act](#), 2012.
23. In response to this Preliminary Objection, the Respondent filed a further Affidavit sworn on 12<sup>th</sup> May, 2025, stating that the Applicant's grounds for objection are legally untenable, emphasising her status as a bona fide beneficiary to her late mother's estate.
24. She argued that the deceased significantly contributed to the acquisition and development of the properties during her lifetime. Specifically, she stated that property No. Nakuru Municipality Block 5/42 was acquired and developed by the deceased, implying that the Applicant is not its sole owner.
25. Furthermore, that her mother's contributions during her lifetime cannot be disregarded. She maintained that the beneficiaries of Njeri Tara Das's estate have a legitimate expectation to inherit a share based on their mother's contributions.
26. The Respondent asserted that the Applicant's Preliminary Objection is misplaced and urged that the court to dismiss it, allowing the succession cause to proceed.

### **Applicant's Submissions**

27. The Applicant's main issue for determination is whether the Petition should be struck out.
28. Accordingly, it was argued that the Respondent unilaterally filed the Petition without the Applicant's knowledge, authority, consent, or even participation. Further that the Applicant did not sign the Petition as the process was carried out secretly by the Respondent and against his wishes, when he was the one to initiate any succession process for his late wife.
29. The Applicant submitted that the Respondent demeaned him by listing him last, despite being entitled to the first preference in the administration of his late wife's estate.
30. Further, that he has not declined to initiate or take out any Grant of Letters of Administration, and the Respondent has not provided any evidence to the court to demonstrate any failure on his part. Moreover, that he did not participate in the succession cause herein as admitted by the Respondent.
31. It was submitted that section 66 of the [Law of Succession Act](#) outlines the order of preference for those qualified to apply for representation in intestacy and priority is given to surviving spouses, followed by the children of the deceased.
32. He quoted Rule 7 (7) of the [Probate and Administration Rules](#) and argued that it requires that a person with a lesser right to administration obtain the consent of those with greater priority, or have them renounce their right, or issue citations requiring them to apply or renounce their right, which the Respondent failed to do, instead proceeding to file the succession cause without seeking consent or notifying him.
33. The Applicant argued that the Respondent has with impunity and concealment of material facts, included Title No. Nakuru/Municipality Block 5/42 in the Estate, even though it is exclusively owned by the him. The Applicant is concerned that the matter may be gazetted and a Grant of Letters of Administration Intestate issued without his participation, leading to irreparable harm if his exclusively owned property is included in the Grant.
34. He argued further that none of the four parcels of land included in the matter constitute an asset of the deceased's Estate. He elaborated that Title Number Nakuru/Municipality Block 5/42 is his sole



property, while Title Numbers Njoro/Ngata Block 1/374, Njoro/Ngata Block 1/375, and Njoro/Ngata Block 1/376 were jointly owned by him and the deceased.

35. Accordingly, that the deceased's name has since been deleted from the jointly owned properties, leaving the Applicant as the sole registered owner by virtue of being the surviving joint owner, as demonstrated by copies of Certificates of Leases and Official Searches annexed to the Applicant's Supplementary Supporting Affidavit.
36. In support of this, reliance was placed in the case of *Re Estate of M'kiunga M'rinyiru (Deceased)* [2021] eKLR, where Muriithi, J held:-

“On the allegation that property namely Nyaki/Multhankari/xx was left out in the distribution, this Court finds in the negative. From the evidence adduced, it is apparent that the said property is registered in the joint names of the deceased and his brother, M'Ncebere M'Ringiru. This was evidently a joint tenancy. The position in law is clear that in such joint tenancies, when one of the tenants passes on, the remaining tenant automatically becomes the new sole owner under the doctrine of survivorship. This implies that the property is not up for distribution as the surviving tenant is now the new owner. The property will only be up for distribution upon the demise of the new sole owner, and even then, this property would only be the subject of the Estate of this new owner. This is the hallmark of the principle of *jus accrescendi* which provides for the right of survivorship”.

37. He argued that this finding was affirmed in *In re Estate of Johnson Njogu Gichobi (Deceased)* Succession Cause No. 112 of 2016 [2018] eKLR, where L.W. Gitari J held:-

“Section 60 of the *Land Registration Act* provides: 'If any of the joint tenants of any land, lease or charge dies, the Registrar shall, upon proof of death delete the name of the deceased tenant from the register by registering the death certificate.' This means that where property is in the names of joint owners, upon the death of one of them, the surviving owner automatically becomes the owner upon presenting the evidence of death of the joint tenant i.e death certificate to the registrar. The property automatically passes to the surviving joint tenant. This principle of survivorship over jointly owned property operates to exclude the property from the *Law of Succession Act* upon the death of one of the joint tenants”.

38. Further reliance was placed on the holding by Achode J (as she then was) in *Mwangi Gakuri -v- Bernard Kigotho Maina & Another*, H. CNBI. Succ. Cause No. 2335/2011, where the Court stated:-

“Property is capable of passing upon death other than by will. It may pass by survivorship...This applies in cases of joint tenancies that is, where property is jointly owned. Where a co-owner of property is a beneficial joint tenant of the property, their interest will automatically/pass to the surviving tenant upon their death by virtue of the principle of survivorship...The principle of survivorship operates to remove jointly owned property from the operation of the law of Succession upon the death of one of the joint tenants...”

39. The Applicant submitted that as he and the deceased were joint owners, he, as the surviving joint owner, was entitled to acquire ownership without being subjected to the process of intestacy. He then cited the case of *Isabel Chelangat -v- Samuel Tiro* [2012] eKLR, where the principle of survivorship, also known as '*jus accrescendi*', was expounded thus:-

“A joint tenancy imparts to the joint owners, with respect to all other persons than themselves, the properties of one single owner. Although as between themselves joint



tenants have separate rights, as against everyone else they are in the position of a single owner. Joint tenancy carries with it the right of survivorship and "four unities." The right of survivorship (jus accrescendi) means that when one joint owner dies, his interest in the land passes on to the surviving joint tenant. A joint tenancy cannot pass under will or intestacy of a joint tenant as long as there is a surviving joint tenant as the right of survivorship takes precedence".The principle of survivorship dictates that jointly owned land passes automatically to the surviving owner upon one's death without the need to file a Succession Cause. W. M. Musyoka, in his book *Laws of Succession* at page 3, states: "Property is capable of passing upon death other than by will. It may pass by survivorship..... This applies in cases of joint tenancies that is, where property is jointly owned. Where a co-owner of property is a beneficial joint tenant of the property, their interest will automatically/pass to the surviving tenant upon their death by virtue of the principle of survivorship..... The principle of survivorship operates to remove jointly owned property from the operation of the law of Succession upon the death of one of the joint tenants".

40. Given the above, the Applicant argued that Title No. Nakuru/Municipality Block 5/42 was solely owned by him, and Title Numbers Njoro/Ngata Block 1/374, Njoro/Ngata Block 1/375, and Njoro/Ngata Block 1/376, although jointly owned, have since been transferred to his personal name following his wife's death and therefore, there is no justification for including these properties as part of the deceased's estate for intestate distribution.
41. On that basis, he urged this Court to strike out the Petition with costs to the Applicant and uphold the Notice of Preliminary Objection.

### **Respondent's Submissions**

42. The Respondent submitted on five issues, that is ; whether the Court has jurisdiction to continue with the cause; whether the Respondent is entitled to file a Succession Cause for her deceased mother's estate and if not, whether it should be struck out, how properties registered jointly in both husband's and wife's names should be treated upon the death of one and how properties registered in the name of one spouse should be treated during their lifetime and upon the death of one spouse in a family with children.
43. On jurisdiction, it was submitted that jurisdiction is conferred by the *Constitution*, statutes and legal principles. She defined jurisdiction as captured in *Halsbury's Laws of England* 4<sup>th</sup> Ed Vol 9 as;-

“the authority which a Court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for decision”.
44. Further that the *Black's Law Dictionary*, 9<sup>th</sup> Edition, defines it as "the Courts power to entertain, hear and determine a dispute before it".
45. Also, that *Words and Phrases Legally Defined* Vol 3 defines jurisdiction as;-

“the authority which a court has to decide matters that are litigated before it or to take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by statute, charter or commission under which the Court is constituted, and may be extended or restricted by like means. If no restriction or limit is imposed, the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of actions and matters of which the particular Court has cognizance or as to the area over which the jurisdiction shall extend, or it may partake both these characteristics. Where a Court



takes upon itself to exercise jurisdiction which it does not possess, its decision amounts to nothing. jurisdiction must be acquired before Judgment is given".

46. To buttress this, reliance was placed in the Supreme Court of Kenya decision in *Samuel Kamau Macharia and Another vs Kenya Commercial Bank Limited and Others* [2012] eKLR where the Apex Court held that:-

“A Courts jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with Counsels for the first and second Respondents in his Submissions that the issue as to whether a Court of law has jurisdiction to entertain a matter before it is not one of mere procedural technicality, it goes to the very heart of the matter, for without jurisdiction, the Court cannot entertain any proceedings. Where the Constitution exhaustively provides for the jurisdiction of a Court of law, the Court must operate within the Constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation nor can parliament confer jurisdiction upon a Court of law beyond the scope defined by the Constitution. Where the Constitution confers power upon parliament to set the jurisdiction of a Court of law or tribunal, the legislature would be within its authority to prescribe the jurisdiction of such a Court or tribunal by statute law”.

47. Accordingly, the Respondent argued that Article 165 of the Constitution establishes the High Court with unlimited original jurisdiction in civil and criminal matters and under the Law of Succession Act, Cap 160 Laws of Kenya, the High Court has jurisdiction to determine cases of intestate and testate succession and the administration of deceased persons' estates. Section 2(1) of the Law of Succession Act provides:-

“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 case of intestate and testamentary Succession to the estate of deceased persons dying after commencement of this Act and to the administration of estates of those persons”.

48. Accordingly, that this Court has jurisdiction to hear and determine issues of grant issuance, confirmation summons, beneficiaries, estate assets, protests, and grant revocation.
49. Regarding the Respondent's entitlement to file the cause, it was submitted that being the deceased's daughter and a beneficiary of the Estate, the Respondent is qualified to do so. Further that due to the estate's size, the High Court has jurisdiction and that she and her siblings have a legitimate legal expectation to benefit from their mother's shares or properties.
50. She argued that the subject properties in the Succession Cause were co-owned and acquired by the deceased and the Applicant during their marriage, with equal shares before the deceased's death. The Respondent submits that the deceased's shares do not automatically devolve to the Applicant as the sole beneficiary, nor is the Applicant excluded from being a beneficiary.



51. In support of this position, the Respondent argued that section 60 of the *Land Registration Act* provides that:-

“If any of the joint tenants of any Land, Lease or Charge dies, the registrar shall, upon proof of death, delete the name of the deceased tenant from the Register by registering the Death Certificate”.

52. Section 91(8) of the *Land Registration Act* provides states: -

“On and after the effective date, except with leave of a Court, the only joint tenancy that shall be capable of being created shall be between spouses, any joint tenancy other than that is purported to be created without the leave of a Court shall take effect as a tenancy in common”.

53. Section 93 of the *Land Registration Act* states:-

“Subject to the law on matrimonial property, if a spouse obtains land for the co-ownership and use of both or, all the spouses - i. A provision in the certificate of ownership or the certificate of customary ownership clearly states that one spouse is taking the land in his or her own name only or that the spouses are taking the land as joint tenants: or ii. The presumption is rebutted in the manner stated in this subsection: and (b) the Registrar shall register the spouse as joint tenant. 2. If land is held in the name of one spouse only but the other spouse contribute by their labour or other means to the productivity, upkeep and improvement of the land. That spouse or those spouse shall be deemed by virtue of that labour to have acquired an interest in that land in the nature of an ownership in common of that land with the spouse in whose name the certificate of ownership in common of that land with the spouse in whose name the certificate of ownership or customary, certificate of ownership has been registered and the rights gained by contribution of the spouse or spouses shall be recognized in all cases as if they were registered”.

54. Regarding the treatment of properties during the life of spouses and upon the death of one spouse, the Respondent submits that it is not disputed that the estate’s properties were acquired and developed by the deceased. Hence, as per Section 91(2), where a spouse has contributed to the acquisition and development and the certificate of ownership is in the other spouse’s name, that property is considered to have been acquired in common shares and upon death, such property, if the family is not in agreement, should undergo Succession to determine the respective shares and who inherits what.

55. The Respondent submits that it would be unjust to hold that properties, especially those under lease, should be taken over by one spouse to the exclusion of the children. The Respondent urges the Court to reject both the Applicant’s application and Preliminary Objection and allow the Succession Cause to proceed and added that if the parties cannot agree, viva voce evidence will be necessary.

### **Analysis and Determination**

56. Upon perusal of the Application, Preliminary Objection and the various Affidavits files together with the annexures, the issues that commend for determination are:-

1. Whether the Respondent, as the deceased’s daughter, is entitled to file the Succession Cause for her deceased mother’s estate without the consent or participation of the surviving spouse who has priority to administer the estate.



2. Whether the Petition for Grant of Letters of Administration should be struck out.
  3. Who bears costs.
57. On the first issue, there is an established order of priority of beneficiaries who are entitled to apply for letter of Administration of a deceased person's Estate.
58. Indeed Section 66 of the [Law of Succession Act](#) provides that; -

“When a deceased has died intestate, the court shall, save as otherwise expressly provided, have a final discretion as to the person or persons to whom a grant of letters of administration shall, in the best interests of all concerned, be made, but shall, without prejudice to that discretion, accept as a general guide the following order of preference;

- (a) surviving spouse or spouses, with or without association of other beneficiaries;
- (b) other beneficiaries entitled on intestacy, with priority according to their respective beneficial interests as provided by Part V;
- (c) the Public Trustee; and
- (d) creditors:

Provided that, where there is partial intestacy, letters of administration in respect of the intestate estate shall be granted to any executor or executors who prove the will.”

59. Generally, the following are eligible to apply for administration of Estate of a deceased person, in order of preference:
- i. The surviving spouse(s) of the deceased.
  - ii. Children of the deceased.
  - iii. Parents of the deceased.
  - iv. Siblings of the deceased.
  - v. Other relatives (up to the sixth degree of consanguinity), in the absence of the above.
  - vi. The Public Trustee.
  - vii. Creditors of the deceased.
60. From this list, it is evident that the spouse of the deceased ranks in priority over the children of the deceased and the filing of a Petition for Letters of Administration is structured. One does not just wake up and decide to file a Petition. Rule 26 (2) of the [Probate and Administration Rules](#) has to be complied as it states:-

“An application for a grant where the applicant is entitled in a degree equal to or lower than that of any other person shall, in default of renunciation, or written consent in Form 38 or Form 39, be made on notice to every other person entitled in the same degree as or in priority to the applicant.”



61. There is no dispute that the Applicant herein is the widower of the deceased herein. There is no evidence that the Petitioner sought his consent before the filing of the Petition. His consent to the Respondent taking up the administration of this estate is mandatory.
62. The Petitioner's allegations that the Applicant refused to file this succession cause and or refused to give his consent to its filling is not backed up by any evidence. She ought to have cited him first but she did not. What is noted here is both parties have concentrated on issues of ownership of the listed properties by the Petitioner as belonging to the Estate of the deceased. She also listed all the beneficiaries of the Estate including the Applicant herein.
63. While the Petitioner believes that some of the properties were matrimonial property as the deceased allegedly made contribution towards acquisition of the same hence ought to be distributed to the beneficiaries, the Applicant argues that they were jointly owned and have thus devolved to him automatically upon his wife's death by the doctrine of survivorship (jus accrescendi) under Section 60 of the Land Registration Act, 2012 hence not for distribution. On that basis, the Applicant asserts that the court lacks jurisdiction over such properties included in the cause.
64. Certainly, it is this Court that is clothed jurisdiction to determine the dispute in regard intestate and testate succession and the administration of deceased persons' estates as provided for by the Law of Succession Act.
65. The issues as to which properties belong the deceased and how the Estate would be distributed would have been best argued in proceedings for confirmation of grant not at this stage.
66. Even if the Petitioner did not cite the Applicant before filing the Petition, the issue is whether the Petition should be struck out as prayed. The Petitioner has not shown any keenness too of being an Administrator of this Estate despite him being given priority by law to petition for a Grant of Letters of Administration.
67. Since the Applicant did not cross- petition and has not offered in this application to be an administrator of this Estate, striking out the Petition would mean leaving the Estate in limbo. The Estate cannot be left un-administered.
68. Rule 73 of the Probate and Administration Rules provides that:-  
Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.
69. In the circumstances herein, this Court declines invitation to strike out the Petition and instead make the following orders:-
1. The application dated 8<sup>th</sup> August 2024 seeking to strike out the Petition is hereby disallowed.
  2. If need be and within this Succession Cause, the Applicant is at liberty to file a cross-petition, within 45 days from today.
  3. In default of Order 2 above, the Petitioner/ Respondent be issued with the Grant of Letters of Administration to pave way for the next cause of action towards disposal of the Estate of the Deceased herein.
  4. Due to the nature of this matter, each party is ordered to bear their own costs.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 23<sup>RD</sup> DAY OF JULY, 2025.**



**PATRICIA GICHOHI**

**JUDGE**

In the presence of :-

Ms. Ochieng for Mr. Oreng for the Applicant

Mr. Onchuru for Mr. Geke for the Respondent

Ruto, Court Assistant

