



**In re Estate of Leshan Nick ole Letoluo (Deceased) (Succession Cause E024 of 2021) [2025] KEHC 11951 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11951 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAROK  
SUCCESSION CAUSE E024 OF 2021  
CM KARIUKI, J  
JULY 15, 2025**

**IN THE MATTER OF THE ESTATE OF LESHAN NICK OLE LETOLUO (DECEASED)**

**BETWEEN**

**LESHAN KUNTAI ..... 1<sup>ST</sup> ADMINISTRATOR  
SALOME NAANYU LESHAN LETOLUO, JOY NAMUNYAK LESHAN  
(SUING AS THE ADMINISTRATORS OF THE LATE NICK OLE  
LETOLUO) ..... 2<sup>ND</sup> ADMINISTRATOR**

**AND**

**PURITY SOMOINE MEITAMEI ..... OBJECTOR**

**RULING**

1. The 3rd Administrator, Leshan Kuntai, has filed this application under a certificate of urgency dated 21 July 2025, stressing the urgent need for action. He notes that on 18 July 2025, this Court delivered a judgment dismissing the objection filed by the Objector, Purity Somoine Meitamei, and confirming the grant issued to the Administrators along with the mode of distribution set out in the summons for confirmation of grant dated 28 December 2022.
2. Under the confirmed grant, the 3rd Administrator was awarded property known as CIS/Mara/Ilmashiariani Moriyo/290, comprising a maisonette, household furniture, livestock boma, tractor, generator, plantation, and farming equipment. The said property, which also contains sensitive materials including [specific description of sensitive materials], is presently in the possession of the Objector. The Applicant contends that the judgment requires the Objector to vacate and surrender possession forthwith and expresses apprehension that, unless urgent intervention is granted, the Objector may remove or interfere with the deceased's personal effects and documents. He therefore seeks orders for an orderly and humane eviction.



3. The Applicant further states that he is entitled to 25% of the deceased's share of proceeds from the sale of Land Reference No. 7785/814 (the Runda property), as per the provisions of [specific legal provision]. He avers that the firm of Gikera & Vadgama Advocates was instructed to deposit the said proceeds in a fixed deposit account from September 2021, but has not disclosed particulars of the accrued interest. He prays that the firm be compelled to provide complete account records, including fixed deposit certificates, account statements, and details of interest accrued less statutory deductions. The application is premised on the need to protect and preserve the estate's assets for the benefit of the beneficiaries.
4. In the Summons dated 21 July 2025, brought under Sections 32(a) and (b), 47, 82 and 83 of the Law of Succession Act, Rules 49, 64 and 73 of the Probate and Administration Rules, Article 159(2)(d) of the Constitution, Section 80 of the Advocates Act, Rules 2, 3, 4 and 5 of the Advocates (Deposit Interest) Rules, Rules 5, 6, 9, 10, 11 and 13 of the Advocates (Accounts) Rules, and all other enabling provisions of the law, the 3rd Administrator/Applicant, Leshan Kuntai, together with co-administrators Salome Naanyu Leshan Letoluo and Joy Namunyak Leshan, seeks a raft of urgent orders to secure, protect, and recover the assets of the estate of the late Leshan Nick Ole Letoluo.
5. The application follows the judgment delivered on 18 July 2025 of this Court, which dismissed the Respondent's objection, confirmed the Grant of Letters of Administration Intestate, and vested Land Title No. CIS/Mara/Ilmashiariani Morijo/290, together with all structures, livestock, machinery, household furniture, and personal effects thereon, solely in the Applicant. Despite the judgment, the Respondent, Purity Somoine Meitamei, remains in occupation of the property without a lawful basis, allegedly interfering with estate assets and risking their dissipation.
6. The Applicant seeks, among other reliefs, a temporary injunction restraining the Respondent from removing, selling, disposing of, or interfering with estate property; immediate and unfettered access to the land to compile a complete inventory of assets; an account of livestock belonging to the deceased and details of any sales made; the Respondent's eviction within fourteen days under the supervision of the Officer Commanding Station; production of complete statements and records by M/s Gikera & Vadgama Advocates in respect of proceeds from the sale of the deceased's share in the Runda Property (LR No. 7785/814) held in call deposit at Victoria Commercial Bank; production of supporting documentation relating to legal fees and payments made from estate funds; immediate disbursement of the proceeds and balances held at KCB Narok Branch to the rightful beneficiaries; and any other consequential orders necessary to give full effect to the judgment and confirmed grant.
7. The grounds in support are that the Respondent's continued occupation amounts to trespass and obstruction of justice; there is a significant risk of loss of estate assets; certain funds remain unaccounted for by the estate's former advocates; and the Court has inherent jurisdiction to make any orders necessary to implement its judgment and protect the estate. The affidavit of Leshan Kuntai supports the application.
8. The supporting affidavit was sworn on 21 July 2025 by Leshan Kuntai, the 3rd Administrator/Applicant and firstborn son of the deceased, in support of an application seeking urgent court orders following the judgment of 18 July 2025, which dismissed the Objector's claim and confirmed the grant.
9. Leshan avers that he is the confirmed beneficiary of Land Title No. CIS/Mara/Ilmashiariani Morijo/290 and its developments, but the Objector is still in possession despite the judgment. The property contains sensitive documents, firearms records, military uniforms, medals, and other items of national and historical value that require immediate securing to prevent loss or tampering. He fears the Objector may remove or interfere with these items, citing a prior incident involving the unlawful transfer of another family property (Morijo/345) by one of her witnesses.



10. He also raises concern over alleged interference with estate assets, including tyres removed from a vehicle awarded to the Objector. Leshan urges the Court to order immediate vacant possession of the property within 14 days, arguing that the Kshs. 750,000 awarded to the Objector is sufficient for her relocation.
11. On financial matters, he details the sale of Runda Property (LR 7785/814) for Kshs. 65 million, of which the deceased's share was Kshs. 32.5 million. He claims that proceeds were to be placed in a fixed deposit by M/s Gikera & Vadgama Advocates, but no statements or certificates have been produced despite repeated requests. He disputes the advocates' claim of holding the funds in a call deposit account at Victoria Commercial Bank, asserting that confidentiality is not a valid reason for withholding account records. He seeks an order compelling the bank to release all documentation for verification, stressing the need for transparency and accountability in financial matters.
12. He urges the Court to prioritise the matter due to the urgency of securing sensitive estate assets, enforcing the judgment, and ensuring transparency in estate funds.

### **The response**

13. In her replying affidavit, sworn on 25/07/2025, Purity Somoine Meitamei acknowledges the Court's judgment of 18/07/2025 declaring she was not the deceased's spouse but seeks fair treatment post-judgment. She opposes the Applicant's demand for immediate vacant possession of LR No. CIS-Mara/ilmashiarani-Morijo/290, requesting at least 90 days to vacate under Section 152E of the [Land Act](#), citing her continuous nine-year occupation and the hardship of abrupt eviction.
14. She prays to retain all household furniture and effects acquired for the impugned marriage, most purchased by her or with the deceased specifically for their home, as well as livestock mainly acquired after his death, arguing their removal would be unjust. She denies possessing any title deeds or handing any over in exchange for favourable testimony, refutes allegations of impropriety or inducement of witnesses, and clarifies that the deceased's documents and military memorabilia are intact and can be released on court direction.
15. She explains the removal of a vehicle's wheels was to preserve them, not for wrongful purposes. She urges the Court to extend humanitarian consideration by allowing her sufficient time and property to enable a dignified relocation.
16. Salome Naanyu Leshan Letoluo, the widow of the deceased and the first Administrator of the estate, swore an affidavit on 31 July 2025, responding to the summons and supporting affidavit filed by the third Administrator, Leshan Kuntai. She expresses gratitude to the Court for recognizing her position as the widow and for its favorable findings regarding the rightful beneficiaries of the estate, including her children.
17. The estate comprises several parcels of land located in Mara/Ilmashariiiani Morijo totaling approximately 204 acres, two bank accounts at Kenya Commercial Bank's Narok Branch, proceeds from the sale of the Runda property held in trust by their advocates, as well as movable assets including a 4WD vehicle, tractor, generator, and farming equipment. The largest property, measuring about 169 acres, was mutually agreed among the beneficiaries to be shared with Salome receiving 109 acres (including Maisonette 1 and a bungalow), the third Administrator receiving 30 acres (including Maisonette 2), and her child, Purko Leshan, receiving 30 acres. Salome disputes the third Administrator's assertion that he is the sole beneficiary of this property and attaches the agreed schedule of distribution to support her position.



18. Regarding occupancy, the Protester currently resides in Maisonette 2 and has been instructed to vacate by 10 August 2025. Salome rejects the Protester's claim for a 90-day notice to vacate on the basis that Section 152E of the Land Act, which protects unlawful occupants, does not apply since the Protester occupied the property with consent and is not a squatter.
19. Concerning the proceeds from the sale of the Runda property, Salome explains that the property was sold before the deceased passed, for Kshs. 65 million. She and the deceased jointly owned the property. The proceeds are held in a Call Deposit Account at Victoria Commercial Bank to provide flexibility during the ongoing succession proceedings. She notes that the third Administrator's repeated demands for detailed account statements and documents have been frustrated by bank confidentiality rules. The interest accrued on the account since January 2023 amounts to over KShs. 3.6 million, and affidavits explaining these facts have been annexed.
20. Regarding legal fees, Salome states that initially the advocates' fees were agreed at KShs—2.6 million, anticipating an uncontested matter. However, due to the protesters' involvement and increased workload, the fees were recalculated to over Kshs 7.5 million, which the family has approved for payment.
21. She acknowledges the Court's allowance that the Protester receive Kshs. 750,000 and a motor vehicle, and agrees that this amount should be deducted from the Runda property proceeds. However, she opposes the third Administrator's suggestion to charge this deduction solely against particular beneficiaries' shares, insisting that all the children, who are equal beneficiaries, share the deduction fairly. Salome clarifies that she is not a beneficiary of the deceased's share of the Runda property, which is to be divided among her four children. She also supports the equal sharing of funds held in a joint bank account by her children.
22. Finally, Salome expresses personal frustration with the third Administrator's conduct, despite his being her son. She states that she is elderly and frail and seeks peace after the Court's ruling. She prays that the Court dismiss the third Administrator's application with costs.

### **Grounds of opposition.**

23. In their Grounds of Opposition dated 25 July 2025, the 1st and 3rd Administrators oppose only the part of the Notice of Motion dated 21 July 2025 seeking accounts on proceeds from the sale of LR No. 7785/814 (Runda Property). They argue the matter is *res judicata*, having been conclusively determined in an earlier application dated 6 May 2024, thus offending Section 7 of the Civil Procedure Act. They term the impugned portion misconceived, incompetent, and an abuse of process, and seek its dismissal with costs.

### **Further affidavit**

24. Leshan Kuntai, the firstborn son of the deceased and third Administrator of the estate, swore a Further Affidavit in response to the Replying Affidavit of Salome Naanyu Leshan Letoluo. He stated that despite efforts by his lawyers to engage with the other administrators to resolve issues amicably, no consensus had been reached, prompting the filing of this affidavit.
25. He emphasized that his primary concern was to ensure transparency and accountability in the administration of the estate, particularly regarding the proceeds from the sale of the Runda property. To this end, he requested that the court order the law firm representing the administrators, M/s Gikera & Vadgama Advocates, to provide a comprehensive statement of accounts, including bank instructions, deposit certificates, statements reflecting interest accrued, and details of any



- disbursements. He also sought an order compelling Victoria Commercial Bank to produce all relevant documents relating to the call deposit account holding the proceeds from the property sale. Further, he prayed for the Court to direct the advocates to distribute the deceased's share of the proceeds to the rightful beneficiaries, less any agreed legal fees.
26. Leshan Kuntai alleged a deliberate attempt by the advocates and his co-administrators to evade accountability. He raised concerns that his elderly mother, who had sworn the Replying Affidavit, may not have fully understood its contents and that the Commissioner for Oaths who witnessed the affidavit might not have been present at the signing. He pointed to inconsistencies and omissions in the affidavit, particularly regarding the timing of instructions to deposit the proceeds and the lack of documentary evidence showing that the funds were placed in a call deposit account. He also challenged the advocates' refusal to provide specific bank statements, arguing that confidentiality should not shield transparency in estate administration.
  27. Kuntai disputed the legality of the fees charged by the advocates and stated that his share of the estate proceeds had been withheld, possibly as retaliation for challenging the fees. He noted that other beneficiaries had received their payments without his consultation or approval, which he considered a breach of fiduciary duty.
  28. He produced evidence, including a letter and distribution schedule, showing the balance due to the estate and the proposed individual shares of beneficiaries. Despite being informed to tax their bill of costs, the advocates continued to refuse to disburse their share. He argued this refusal was unlawful and punitive.
  29. Kuntai urged the Court to grant his requested orders to ensure transparency and proper administration of the estate, stressing that these measures were essential for safeguarding the rights of all beneficiaries and maintaining the integrity of the process.
  30. He affirmed that the contents of his affidavit were accurate to the best of his knowledge and attached supporting exhibits.

#### **Directions of the Court.**

31. On 22 July 2025, the Court reviewed the application dated 21 July 2021 and made the following directions. The application was certified urgent and ordered to be heard on a priority basis. A temporary injunction was issued restraining the Respondent, Purity Somoine Meitamei, whether personally or through agents, from removing, selling, disposing of, transferring, or otherwise interfering with any items, assets, documents, or effects located at the property described as Land Title No. CIS/Mara/Ilmashiariani Morijo/290, without the written consent of the 3rd Administrator/Applicant until the Court makes further orders.
32. On 1 August 2025, the Court issued an order directing M/s Gikera & Vadgama Advocates to immediately disburse to the rightful beneficiaries the deceased's share of the proceeds from the sale of the Runda Property. This disbursement is to be made after deducting any agreed legal fees and costs, and must be carried out by the confirmed Schedule of Distribution approved by the Court.
33. Additionally, the Court ordered that the remaining funds held in Kenya Commercial Bank (KCB), Narok Branch, Account Number XXXXXXXXXXXX, be divided equally among the beneficiaries Leshan Kuntai, Sheila Pereruan Griffin, Joy Namuyak Leshan, and Purko Leshan.



## **Analysis And Determination.**

34. Having carefully considered the pleadings and documentary evidence, the following issues emerge for determination:
- i. Whether the Respondent, Purity Somoine Meitamei, is entitled to remain in possession of Land Title No. CIS/Mara/Ilmashiariani Morijo/290 following the Court's judgment of 18 July 2025 confirming the Grant of Letters of Administration in favour of the Applicants.
  - ii. Whether the Respondent is entitled to the protection of Section 152E of the *Land Act*, requiring a 90-day notice before eviction.
  - iii. Whether the Respondent has the right to retain certain household furniture, livestock, and personal effects purportedly acquired during or after the deceased's lifetime.
  - iv. Whether the Court should order M/s Gikera & Vadgama Advocates and Victoria Commercial Bank to produce complete accounting records, including deposit certificates, bank statements, and details of interest accrued relating to the proceeds from the sale of Land Reference No. 7785/814 (Runda Property).
  - v. Whether the proceeds from the sale of the Runda Property have been properly administered and distributed to the rightful beneficiaries, and whether the deductions for legal fees and payments to the Respondent should be apportioned equitably among beneficiaries.
  - vi. Whether the Respondent's continued interference with estate assets warrants an injunction and orders for protection of such assets.
  - vii. Whether the application, or parts thereof, are res judicata or constitute abuse of process.

## **Possession and Rightful Occupation**

35. It is undisputed that this Court, on 18 July 2025, dismissed the objection by the Respondent, Purity Somoine Meitamei, to the Grant of Letters of Administration in respect of the Estate of the late Leshan Nick Ole Letoluo. The Court confirmed the grant in favour of the Applicants and approved the distribution schedule of the estate assets.
36. The law is clear that once a grant of letters of administration is issued and confirmed by the Court, the administrators derive authority over the estate assets and are entitled to possession of estate property (see *Law of Succession Act*, Cap 160, and *Probate and Administration Act*).
37. The Respondent's continued occupation of Land Title No. CIS/MARA/Ilmashiariani Morijo/290, post-judgment, without lawful authority, may constitute trespass. The Respondent's claim for protection under Section 152E of the *Land Act* is misconceived, as this provision protects unlawful occupants (squatters). In contrast, her occupation was with the consent of the deceased and family, ceasing upon grant confirmation.
38. The Court must balance the Respondent's plea for time to vacate against the rights of the lawful administrators and beneficiaries to possess and manage estate property. The Respondent has had ample time during the pendency of proceedings, including the application hearing period, to arrange alternative accommodation.
39. Accordingly, the order for eviction within sixty (60) days is reasonable, ensuring protection of estate interests and respect for the Court's authority.



### **Protection of Sensitive Estate Assets**

40. The estate includes unique and sensitive items of significant personal and national importance, including personal documents, title deeds, military service records, uniforms, and rank insignia of the deceased. The risk of loss, removal, or tampering with such assets while in the Respondent's unlawful possession is real and grave.
41. The Court's temporary injunction preventing removal or interference with estate assets until vacant possession is effected is justified to preserve the status quo and protect the estate's integrity. Save as will be directed at the final orders.

### **Accounting and Transparency in Estate Administration**

42. Transparency is a cornerstone of proper estate administration. Beneficiaries have a right to full and frank disclosure of estate funds and assets to ensure their lawful entitlements are preserved and protected.
43. The Respondent's resistance and the Advocates' failure to provide comprehensive statements and certificates relating to proceeds from the sale of the Runda Property undermine this principle and raise suspicion of possible mismanagement or concealment.
44. While confidentiality at banks is recognized, it cannot override judicial authority or the beneficiaries' rights to information in succession proceedings.
45. The Court therefore orders full disclosure and production of all relevant banking documents, deposit certificates, and statements of interest accrued. This will facilitate verification of the estate funds and proper accounting.

### **Retention of Household Effects and Livestock**

46. Household furniture and effects acquired during cohabitation may belong to the Respondent in certain circumstances.
47. However, livestock acquired by purchase and birth by animals mainly after the deceased's death are the Respondent's assets. However, there may be a mix of what each of the deceased and respondents acquired during their cohabitation. Taking into account that she took care of the deceased in their cohabitation to the end, in the circumstances.
48. The Court orders that the livestock, acquired by purchase or birth of animals after the deceased's demise, all the movable household furniture, and effects shall be released to the Respondent.

### **Distribution of Proceeds and Legal Fees**

49. The deceased's share of the Runda Property sale proceeds is substantial (Kshs. 32.5 million), and the Court is satisfied that payment of legal fees incurred, including those arising from contested proceedings, is legitimate so long as fees are fair, reasonable, and agreed upon by beneficiaries.
50. The contention over the deduction of Kshs. 750,000 awarded to the Respondent is a matter of equitable apportionment. Since the beneficiaries are equal heirs under the law and the distribution schedule, it would be unjust to single out specific beneficiaries for deduction.
51. The Court aligns with the view that such deductions must be shared equally among all beneficiaries to uphold fairness and equality in estate administration.



## **Res Judicata and Abuse of Process**

52. The challenge to accounting for the Runda Property proceeds has previously been determined in earlier proceedings.
53. To the extent the present application seeks to relitigate settled issues, the Court agrees it is an abuse of process. However, fresh allegations of nondisclosure and withholding of funds warrant judicial scrutiny.

## **Fiduciary Duties of Administrators**

54. Administrators owe a fiduciary duty to all beneficiaries to act honestly, transparently, and diligently in managing the estate (see *Law of Succession Act* and principles established in *In re Estate of Nyerere and Republic v Kenya National Assurance Co. Ltd*).
55. Allegations of withholding beneficiary shares, punitive conduct, and failure to provide information are serious and undermine confidence in estate management.
56. While family disputes and differences exist, the Court expects administrators to discharge their duties without malice, in good faith, and with utmost transparency.

## **Conclusion**

57. In conclusion, the Respondent's continued occupation of LR CIS/Mara/Ilmashiariani Morijo/290 may be deemed unlawful after the court judgment herein, the estate assets are at risk and require protection, and full disclosure of estate funds is necessary to ensure proper administration and distribution.
58. The Court's orders for eviction, injunction, production of documents, and equitable distribution are necessary to give effect to the judgment of 18<sup>th</sup> July 2025 and uphold the rule of law.

## **Final Orders**

59. Accordingly, the Court makes the following orders:
  - i. The Respondent, Purity Somoine Meitamei, shall vacate and deliver vacant possession of Land Title No. CIS/Mara/Ilmashiariani Morijo/290 within sixty (60) days from the date of this ruling.
  - ii. The Court orders that the Objector/Respondent shall retain all household furniture and effects acquired for the impugned marriage, most purchased by her or with the deceased specifically for their home, as well as livestock mainly acquired and purchased by her after the deceased's demise and in event of disagreement in identifying them respondent to retain 50% of the livestock at the time of sharing.
  - iii. The Officer Commanding Station, Narok, is hereby authorized to assist in enforcing vacant possession if the Respondent fails to comply within the stipulated period and ensure the Respondent moves with the items mentioned in (ii) above.
  - iv. Save what is in (ii) above the other items and assets of the estate of the late Leshan Nick Ole Letoluo shall vest in possession of the administrators.



- v. The Respondent is restrained from removing, selling, disposing, transferring, or otherwise interfering with any assets, documents, or effects on the said Morijo property pending vacant possession, save all household furniture and effects, as well as livestock mentioned above (ii).
- vi. M/s Gikera & Vadgama Advocates and Victoria Commercial Bank shall, within thirty (30) days, produce all bank statements, fixed deposit certificates, accounting records, and other documents related to the proceeds from the sale of Land Reference No. 7785/814.
- vii. The Advocates shall promptly disburse the deceased's share of the proceeds from the sale of the Runda Property to the rightful beneficiaries, after deducting agreed legal fees and costs, and or taxed in case of disagreement.
- viii. The deduction of Kshs. 750,000 awarded to the Respondent shall be apportioned equally among all beneficiaries of the estate and to be paid before she vacates CIS/Mara/Ilmashiariani Morijo/290 within sixty (60) days.
- ix. The balance of funds held at Kenya Commercial Bank, Narok Branch, Account No. XXXXXXXXXXXX, shall be divided equally among the beneficiaries: Leshan Kuntai, Sheila Pereruan Griffin, Joy Namuyak Leshan, and Purko Leshan.
- x. Certificate of grants shall be rectified to conform to the orders herein in the event of any discrepancies with this ruling.
- xi. The parties themselves shall bear their costs of this application.

60. Orders accordingly.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 15<sup>th</sup> DAY OF JULY 2025.**

.....

**CHARLES KARIUKI**

**JUDGE**

