



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**In re Estate of Juliet Wanjiku Githegi (Succession Cause 1303 of 2018)  
[2024] KEHC 13003 (KLR) (Family) (24 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13003 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 1303 OF 2018  
PM NYAUNDI, J  
OCTOBER 24, 2024**

**IN THE MATTER OF THE ESTATE OF JULIET WANJIKU GITHEGI**

**RULING**

1. This ruling is with regard to summons for confirmation dated 15<sup>th</sup> January 2024 and Affidavit of protest sworn on 13<sup>th</sup> May 2024 in response thereto. The parties are daughters and grandson and daughters of the deceased. The issue for determination by this court is how the estate of the deceased should be distributed.
2. The Applicants propose equal distribution among the beneficiaries of the estate assets which are enumerated here below-
  - a. Parcel of Land Kabete/nyathunA/1651
  - b. L/R Number 209/6287
  - c. Shop located in Ngecha Lower Kabete
3. The Protestor who is a co Administrator, proposes that the families of the sons of the deceased (Namely Allan Thuku Githegi, Booker Mbugua Githegi and Daniel Waneni Githegi) share Parcel Kabete/ Nyathuna/1651 equally and the daughters of the deceased share the remaining parcels equally. The basis of the proposal is that the deceased and her husband had directed that the sons jointly inherit Kabete/ Nyathuna/1651. It is his contention that it is not economically viable to share all the properties equally and there is no requirement that each child gets a share of each property.
4. The Applicants on the other hand base their claim for equal distribution on Article 27 of *the Constitution* of Kenya and Section 38 of the *Law of Succession Act*. The Applicants also rely on the decisions in Re Estate of Godana Songoro Guyo (Deceased) [ 2020] eKLR; Re Estate of Muthoni Kanyua (Deceased) [2018] eKLR and in the Matter of the Estate of M’Ngarithi M’Miriti alias Paul M’Ngarithi M’Miriti (Deceased) [2017] eKLR



5. It is common ground that the deceased died intestate, in the absence of a will his estate will be distributed in accordance with the provisions of Sections 38-42 of the *Law of Succession Act*. The law does not discriminate on the basis of gender or marital status. It has been submitted that it is not economically viable to distribute L.R. 209/6287 and the plot in Ngecha, Lower Kabete.
6. It is also not in dispute that the following are the beneficiaries of the Estate-
  - a. Lucy Wairimu Kimani Daughter
  - b. Grace Njeri Koinange Daughter
  - c. Ruth Wairigu Gichanga
  - d. Estate of Mary Wanjiru Ng'ang'a (Deceased)
  - e. Estate of Margaret Wamathwe Munyao (Deceased)
  - f. Estate of Emily Wambui Nduru (Deceased)
  - g. Estate of Allan Thuku Githegi (Deceased)
  - h. Estate of Booker Mbugua Githegi (Deceased) and
  - i. Estate of Daniel Wanene Githegi (Deceased)
7. Accordingly, I direct that the Grant be confirmed and the Estate distributed equally in terms of paragraph 4 of the supporting affidavit sworn on 15<sup>th</sup> January 2024. Which is to state the following assets shall be distributed equally among the beneficiaries and with respect to the deceased children of the deceased, their shares shall be held in trust by the 3 Administrators pending the identification of the respective beneficiaries of those estates.
  - a. Parcel of Land Kabete/nyathuna/1651
  - b. L/R Number 209/6287
  - c. Shop located in Ngecha Lower Kabete
8. In the event that it is not economically viable to sub divide the assets, the same will be sold and proceeds divided equally among the beneficiaries. With regard to the deceased beneficiaries, if the assets are sold their share of the proceeds will be deposited into the estate account and paid out once the beneficiaries are identified and determined.
9. That the Administrators shall finalise transmission of the Estate within 120 days. In the event that either Administrator fails or declines to execute any documents so as to facilitate the transmission within 21 days of delivery, the Deputy Registrar, Family Division Milimani High Court Nairobi is authorized to execute the said documentation.
10. The final orders shall be as follows;
  - i. That Protest is dismissed
  - ii. The Grant herein as rectified on 30<sup>th</sup> June 2023 is confirmed.
  - iii. The Assets of the estate of the deceased will be distributed equally amongst the beneficiaries.
  - iv. The shares of the deceased siblings (children of the deceased) will be held in trust by the Administrators on behalf of the Estate of the respective deceased persons until the rightful beneficiaries are identified.



- v. In the event it is not economically viable to distribute any asset the same shall be sold and proceeds shared equally among the beneficiaries and the share of the deceased siblings will be deposited in the estate account pending determination of the rightful beneficiaries.
- vi. That the Administrators shall finalise transmission of the Estate within 120 days. In the event that either Administrator fails or declines to execute any documents so as to facilitate the transmission within 21 days of delivery, the Deputy Registrar, Family Division Milimani High Court Nairobi is authorized to execute the said documentation.
- vii. Mention on 4<sup>th</sup> March 2025 to confirm compliance.
- viii. Each party will bear their own costs.

**DELIVERED ON THE VIRTUAL PLATFORM, DATED AND SIGNED AT NAIROBI THIS 24<sup>TH</sup> DAY OF OCTOBER, 2024.**

**PATRICIA NYAUNDI**

**JUDGE**

**In the presence of:**

Court Assistant Fardosa

