



REPUBLIC OF KENYA



KENYA LAW

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**In re Estate of Gikonyo Thumbi (Deceased) (Succession Cause 1234 of 2018)
[2024] KEHC 13007 (KLR) (Civ) (18 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13007 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
SUCCESSION CAUSE 1234 OF 2018
PM NYAUNDI, J
OCTOBER 18, 2024**

RULING

1. Vide Summons for confirmation dated 11th December 2024, the 1st Administrator Rosemary Wambui Nyagenye seeks the following orders
 1. Spent
 2. That the grant of letters of Administration made to Rosemary Wambui Nyangeny & Mercy Wangari Kariuki on the 8th December 2023 be confirmed.



DESCRIPTION OF PROPERTIES	NAMES	SHARES OF HEIRS
Lr No. 474 Makongeni Settlement Scheme	Mercy Wangari Kariuki	Absolutely
Lr No. 919 Makongeni Settlement Scheme	Mercy Wangari Kariuki	(Holding in trust for Wicliff(sic) Thumbi & Lucy Wachinga
Plot No. Nyandarau Ndemi/ 3413	Mercy Wangari Kariuki	Absolutely
PLot No. Kayole Riverside	Mercy Wangari Kariuki	(holding In Trust For Wicliff (sic) Thumbi & Lucy Wachinga
Kantafu Plot No. 1488	Rosemary Wambui Nyegenye (Life interest)	(Holding in Trust for Wicliff (sic) Thumbi & Lucy Wachinga

That costs of this application be in the cause. Paragraph 4.

The Application is supported by her affidavit sworn on even date in which she proposes that the properties be distributed as per schedule below-

- The 2nd Administrator has filed affidavit of protest and proposes that the Estate of the deceased be distributed as hereunder

DESCRIPTION OF PROPERTIES	NAMES	SHARES OF HEIRS
Lr No. 496 Makongeni Settlement Scheme	Mercy Wangari Kariuki	Absolutely
Lr No. 919 Makongeni Settlement Scheme	Mercy Wangari Kariuki	(Holding in trust for Wicliff(sic) Thumbi & Lucy Wachinga
Plot No. Nyandarau Ndemi/ 3413	Mercy Wangari Kariuki	Absolutely
Kantafu Plot No. 1488	Rosemary Wambui Nyegenye (Life interest)	(Holding in Trust for Wicliff (sic) Thumbi & Lucy Wachinga



3. The protestor contends that Property known as Kayole Riverside South Plot No. K4 does not comprise part of the estate of the deceased as the property was previously registered in their joint names and upon his death it was vested in her solely by operation of law.
4. Both parties filed their respective submissions in which they recited the averments in their respective affidavits.
5. The relevant provisions are Sections 34 to 42 of the Law of Succession Act. The first issue for determination is who the beneficiaries of the estate. It is not in dispute that it is both the Administrators and the two children of the 2nd Administrator, one of whom is a minor.
6. The next issue is what are the assets of the estate of the deceased. The 2nd Administrator submits that Kayole Riverside South Plot No. K4 does not comprise the estate of the deceased as the same was registered in their joint names and devolved to her by operation of law upon the death of the deceased. This is not challenged by the 1st Administrator. Accordingly, I find that the asset is not part of the estate of the deceased.
7. The 2nd Administrator submits that Kantafu Plot No. 1488 comprises part of the estate and has submitted a letter confirming the same. The 1st Administrator has not controverted this.
8. The two proposals are somewhat aligned to the extent that provision is made for each of the identified beneficiaries. This has eased the work of the Court. In an estate such as this the Court is concerned to ensure that the surviving widows are not at risk of being rendered destitute and the estate is preserved for the benefit of the Children. With this in mind I make the following order as regards the distribution of the estate.

DESCRIPTION OF PROPERTIES	NAMES	SHARES OF HEIRS
Lr No. 496 Makongeni Settlement Scheme	Mercy Wangari Kariuki And Wycliff Thumbi	Hold in Trust for Wycliff Thumbi and Lucy Wachinga in equal shares
Lr No. 919 Makongeni Settlement Scheme	Mercy Wangari Kariuki And Wycliff Thumbi	(Holding in trust for Wycliff Thumbi & Lucy Wachinga In Equal Shares
Plot No. Nyandarau Ndemi/ 3413	Mercy Wangari Kariuki And Rosemary Wambui Nyegenye (Life Interest)	(Holding in trust for Wycliff Thumbi & Lucy Wachinga To Hold Jointly
Kantafu Plot No. 1488	Rosemary Wambui Nyegenye And Mercy Wangari Kariuki (Life interest)	(Holding in Trust for Wycliff Thumbi & Lucy Wachinga in equal shares

9. The grant issued on 8th December 2023 is confirmed, the mode of Distribution shall be as per schedule in paragraph 8 above. The Administrators shall finalize transmission of the estate within 60 days. Mention on 27th November 2024 to confirm compliance.
10. This being a family matter there shall be no order as to costs.



It is so ordered

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 18TH OF OCTOBER, 2024.

P. NYAUNDI

JUDGE

In presence of: -

Fardosa Court Assistant

