



REPUBLIC OF KENYA



In re Estate of Mary Mumbi Gitiriba (Deceased) (Succession Cause 003 of 2022) [2023] KEHC 17760 (KLR) (18 May 2023) (Ruling)

Neutral citation: [2023] KEHC 17760 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 003 OF 2022**

SM MOHOCHI, J

MAY 18, 2023

IN THE MATTER OF THE ESTATE OF MARY MUMBI GITIRIBA (DECEASED)

BETWEEN

**JOSEPH HASSAN ROBLE 1ST BENEFICIARY
HASSAN WANJOHI 2ND BENEFICIARY
MARGARET NYAGUTHI WANJOHI 3RD BENEFICIARY
SUSAN WAIRIMU HASSAN 4TH BENEFICIARY**

AND

**PETER SIMON NGORI 1ST ADMINISTRATOR
LILY NJOKI MAINA 2ND ADMINISTRATOR**

RULING

Introduction

1. The deceased, the Late Mary Mumbi Gitiriba of Afraha, Nakuru passed on the September 25, 2021, at the age of 89 years old leaving her written will dated 11th November, 2014, appointing her two children (Respondents) as Executors to the will. The Applicants are siblings to the Executrices/Respondents and heirs to the estate.
2. It is noteworthy that the deceased left her Last Will and Testament, under the secure multiple-custody of the KCB Bank and the law firm of Otieno G & Co. Advocate who drew and witnessed the same. While the parties are silent as to how the Will was actually unveiled upon the demise of the deceased, it's been alluded to by the 2nd Respondent, that all parties had copies of the Will that was unveiled by the Otieno G & Co. Advocate and that, she was unaware of her appointment as executor until the unveiling.



3. The Deceased left behind her estate estimated to be worth Kenya Shillings One Hundred and Fifty Million, (kes150,000,000/-) an estimate of value made in the year 2014, seven (7) years before her demise and up to date the estate is without an agreeable valuation amongst the parties.
4. The Application for Grant of Probate of a Written Will was made by the Executors/Respondents, on the 13th January 2022, and eventually it was issued without any contest or objections, on the 28th February 2022. The Grant of Probate with the Will annexed is yet to be confirmed.
5. The deceased last wish in the will annexed to the Grant of probate was that: -
 - i. The estate is to be administered collectively by her two appointed executors on behalf all beneficiaries (the Applicants) while making an equal share bi-annual financial provision to all beneficiaries except the 4th Applicant.
 - ii. The Executors/Respondents were to keep good account of the estate and oversee the equal distribution of the rent collections, after payments of all outstanding loans, utility bills, land rates, caretaker fees, agent commission, maintenance costs and insurance premiums.
 - iii. That the 4th Applicant separates from Mr. Patrick Toskin, who the deceased detested with a passion to an extent of naming him almost three (3) times in her Will. The Court shall consider the legal effect and consequences of this later in this judgement.
 - iv. That the beneficiaries, (all the parties herein) were prohibited from infighting amongst themselves, failure to respect one another, agitating and litigating any conflicts relating to the estate in Court and it would appear the deceased detested Courts.
6. However, it would appear the contrary is happening to the last wish of the deceased, as unfortunately all her children have in the last nineteen (19) months engaged in a vicious, emotional and intense litigation amongst themselves.
7. It is against this backdrop, that the Court has been invited to adjudicate a feud by siblings and this Court contends that there is no dispute that is unresolvable amongst kin.
8. What has been placed before me are two opposing view points and from the heavily laden affidavits, the tone of the deponents against one another would lead one to the logical conclusion, that the parties have entrenched opposing positions, leading to this ruling.

The Applicants Case

9. Between 11th May and 19th October 2022 and in quick succession the Applicants filed multiple Applications, a practice that should be discouraged, parties should exhaustively prosecute their applications, unless under exceptional circumstances, would a party move the Court on a second application while the first application remains unprosecuted.
10. Before this Court are three (3) Applications premised on eighteen (18) grounds filed by the Applicants moving this Court under Sections 47, 70, 71, 76, 82, 83,84 and 95 of the *Law of Succession Act*, CAP 160 and rules 49, 63, and 73 of the *Probate and Administration Rules* and all enabling provisions of the law.
11. In the 1st Application dated 11th May, 2022, under certificate of urgency, supported by an affidavit sworn by all the Applicants in a joint affidavit, seek three (3) reliefs namely: -
 - i. A compulsive Order directed at the Executors/Respondents to render a probate account;



- ii. Order directed at the Executors/Respondents to allow unlimited access to the deceased's matrimonial house by the Applicants. It is supported by the affidavit by; and
 - iii. An Order of Status Quo in regards to management of LR No. Nakuru Municipality/Block 10/52 Maralal Avenue and LR No. Nakuru Municipality/Block 4/225 Ngei Estate pending hearing of the suit.
12. The 2nd Application dated 18th May, 2022, is a summons for the revocation/annulment of the grant under certificate of urgency, supported by the 4th Applicant, Susan Wairimu Hassan's Affidavit sworn on 17th May, 2022.
13. The 3rd Application dated 19th October, 2022 supported by the 4th Applicant, Susan Wairimu Hassan, sworn on 17th October, 2022, is an Application for review of Directions/ Orders issued seeking the following two (2) reliefs: -
- i. Stay of Execution of Orders of the Court made on the 14th October 2022 pending hearing of the application;
 - ii. Setting-aside Orders of the Court made on the 14th October 2022 pending hearing of the 1st Application dated 11th May 2022.
14. The three (3) Applications are premised on the following thirteen (13) grounds as refined by the Court, with grounds (i-iii) attributed to the 1st Application dated 11th May, 2022, grounds (iv-vi) attributable to the 2nd Application dated 18th May, 2022, and grounds (vii-xiii) attributable to the 3rd Application dated 19th October, 2022: -
- i. That the Administrators of the estate had wasted the estate with no accountability to the beneficiaries whatsoever;
 - ii. That the administrators had locked the maternal home and placed Security to seclude the Applicants, which amounted to intermeddling with the estate of the deceased;
 - iii. That considering the issue awaiting determination hearing, it is prudent and paramount that the Court orders for a probate account of the entire Estate to protect the interest of the other beneficiaries were being sidelined in day-to-day running of the estate by the current administrators;
 - iv. That the Grant was obtained fraudulently by concealing material facts from the Court;
 - v. That the 4th Applicant, Susan Wairimu Hassan, has been expressly left out and disinherited in the deceased will, contrary to law, morality and public policy;
 - vi. That the 4th Applicant Susan Wairimu Hassan, is entitled to reasonable provision from the estate;
 - vii. That the Administrators application dated 22nd August 2022 preceded ex-parte on the 12th of October 2022 and Orders were made in the absence of the beneficiary's applicants;
 - viii. That the beneficiaries/Applicants were served with said application dated 22nd August 2022, on the 31st of August 2022, and filed a response on the 28th September 2022 as the application was due for inter-parte hearing on the 30th September 2022;



- ix. That on the 30th of September 2022, upon enquiry at the registry after the call-over, the staff informed counsel-on-record, that this matter as per the Court file was scheduled for mention for direction, on the 27th October 2022 and not the 30th September 2022;
 - x. That despite having filed a response to the Administrator's application dated 22nd August 2022, the same was not considered by the Court while issuing the orders on the 14th October 2022;
 - xi. That it is in the interest of Justice that the Orders made on the 14th October 2022, be set aside/ stayed pending hearing and determination of 1st Application dated 5th of May 2022;
 - xii. That there has been no delay in making this application, and no prejudice will be suffered by the Administrators/Respondents; and
 - xiii. That it is imperative that the prayers be granted to forestall miscarriage of Justice and finalize that the administration of the estate.
15. The 2nd Applicant belatedly, on the 13th of April 2023, simultaneously together with the written submissions filed together with a supplementary affidavit challenging and contesting the averments made by the executors/Respondents in their Replying Affidavit dated 23 March 2023.
16. The latest Affidavit provides, statement of account for 2nd Applicant in relation to rent earned and expenses incurred from LR No. Nakuru Municipality/Block 4/225 Ngei Estate for the period January 2021- 31st December 2022, Twelve (12) Months where a sum of Kshs 480,000/- has been earned over the period, with Kshs 235,540/- being expensed and Kshs 240,000/- being deposited into the UNITAS and for the 3rd Applicant in relation to rent earned and expenses incurred from LR No. Nakuru Municipality/Block 10/52 Maralal Avenue where a sum of Kshs 3,660,750/- has been earned over the period of October 2021 – 31st December 2022, A period of Fifteen (15) Months with Kshs 3,581,114.35/- being expensed.
17. The Applicant further submitted, that with regard to their application dated 19th October 2022, they shall be relying on written submissions dated 11th November 2022, and filed on the 15th November 2022, they framed their issues as: -
- i. The Executors/Respondents compliance with the mandatory Express provisions of section 83 (e) (g) and (h) of the *Law of Succession Act*; and
 - ii. remedial measures
18. The Applicants contend that, the Executors/Respondents have not responded to the application for revocation, submission is made on invalidating clauses in the deceased written will dated 11th November 2014 where the testator explicitly places conditions that will be in disinherit the 4th Applicant Susan Wairimu Hassan and that the rendering of accounts within 6 months was mandatory and the respondents have failed in this regard
19. While relying in the case of *In re Estate of Sarastino M'chabari M'ukabi (Deceased)* [2021] eKLR and *Ibrahim V Hassan & Charles Kimenyi Macharia*, [2019] eKLR and sought for the Revocation of the grant.

The Executrices/Respondents' Case & Submissions

20. The three (3) Applications, are opposed by the Executrices/Respondents by Replying Affidavit Dated 3rd June 2022 and supporting affidavit dated 27th June 2023, the Replying Affidavit dated 17th February



2023 sworn by Peter Simon Ngori and the fifty-six (56) paragraph replying affidavit dated 23rd March, 2023 sworn by Peter Simon Ngori that avers as refined by the Court, that: -

- i. That the deceased died testate;
- ii. That they are Executrices/Respondents and beneficiaries of the estate of their late mother, the deceased herein;
- iii. That the Applicants/ beneficiaries are their siblings and rightful beneficiaries of the estate of the deceased herein;
- iv. That the Applicants/beneficiaries have been at loggerheads with the Executrices/Respondents because they are in a hurry to inherit without following the due process;
- v. That the Executrices/Respondents owe fiduciary duties which require them to act honestly, in good faith and diligently;
- vi. That the Executrices/Respondents have listed all assets and liabilities of the estate of the deceased and have provided the statement of accounts in support of all the assets they are in control of and how they endeavor to settle the outstanding liabilities;
- vii. That the Executrices/Respondents control and manage the principal rent generating property, Nakuru Municipality Block 10/86 Maasai Avenue (Bethel House) while the applicants control and manage the other rent earning assets to wit Nakuru Municipality Block 10/52 Maralal Avenue (Mumbi House) and Nakuru Municipality Block 4/225 Ngei Estate;
- viii. That there is pending loan of KShs. 7,392,265 as at 6th March, 2023 in respect of KCB Account No: [particulars withheld];
- ix. That the Applicants claim that, there is no pending liability on the estate of the deceased;
- x. That with the pending liability, no beneficiary should benefit from any of the assets of the deceased, as all proceeds of the estate has to be directed to repayment of the loan first as the bank has threatened time and again of referring the matter to the Debt Recovering Unit;
- xi. That a party is not allowed to approbate and reprobate parts of an Order like the Applicants are purporting to do, in that they are only acceptable to the favorable parts of the documents and reject the other parts of the documents;
- xii. That the act of the Executrices/Respondents of collecting earnings from Nakuru Municipality Block 10/86 Maasai Avenue (Bethel House) as remitting them to offset the said loan is one of the true contentious in this case;
- xiii. That for transparency in the running of the estate's affairs, the Respondents requested this Court to issue orders for the beneficiaries to appoint a firm of auditors in order to audit the accounts of all assets to wit the principal assets that earn monthly rent from the time the deceased passed on for the purposes of finding the true position of where the rent has been deposited since September, 2021 when the deceased passed on;
- xiv. That the Applicants have intermeddled with the estate of the deceased herein for nineteen (19) months or thereabouts, and they are apprehensive of accounting for the period as they have been converting the estate's money to their use;



- xv. That the Applicants admitted in Court, that they were against the Orders of the 14th October, 2022 which ordered all rent monies generated from all the rent generating properties in the estate to be paid to the KCB Account No: [particulars withheld] to offset the loan;
- xvi. That the Applicant's admitted that the money collected by themselves is converted to their own use, contrary to the law;
- xvii. That apparent from the Unitas Statement, that since September, 2021, the Applicants have managed to deposit a sum KShs 315,343.36;
- xviii. That the Executrices/Respondents pray from the Court for Orders that the beneficiaries to appoint a firm of valuers in order to give the true of all the assets of the deceased;
- xix. That no evidence provided of any wastage;
- xx. That the Court should issue Orders appointing an auditor, and a valuer as sought in their application dated 27th June, 2022 and also orally in Court. This Court allowed the prayers and the respondents were directed to choose 3 firms of auditors and three firms of valuers so that the administrators can select one from each category, they are yet to do that;
- xxi. That the Executrices/Respondents moved the Court to assist in issuing orders that proceeds of rent and funds saved in Unitas account be transferred to the KCB Bank account to offset part of the outstanding loan;
- xxii. That the Order dated 14th October, 2022 directed the manager of Unitas to transfer all funds in the deceased's account No. 100299303 in the names of Mary Mumbi Gitiriba to the Kenya Commercial Bank Account No. [particulars withheld] in the names of Mary Mumbi Gitiriba for the purpose of offsetting mortgage loan arrears. The same was done by the respondents as ordered;
- xxiii. That Executrices/Respondents, have engaged the tenants of the principal asset Municipality Block 10/52 Maralal Road through numerous letters asking them to remit the rent due as ordered by the Court;
- xxiv. That the Executrices/Respondents have called for meetings of beneficiaries and the Applicants have failed, and/or refused to attend, case in point is the meeting convened by Executrices/ Respondents on the 19th September, 2022 chaired by Father Collins Maribong, where the issues of the 2nd Application, for revocation of the Grant, dated 17th May, 2022 was addressed with the 4th Applicant- Susan Wairimu Hassan assured that, she was to get an equal share as the other beneficiaries, in the presence of her advocate.
- xxv. That the three (3) Applications as a general response, are unnecessary as most of the contentions therein have either been caused by the Applicant's own wrongs through omission or commission and can be solved through other dispute settlement mechanisms, or their failure to appreciate there is a rule of law that governs succession matters.

Issues for determination

21. After careful analysis, the Court has framed the following three (3) issues: -
 - i. Whether the Applicants presented sufficient evidence and met the conditions to warrant revocation or annulment of the grant;



- ii. Whether the Application(s) have satisfied the conditions for grant of Review Orders, Setting Aside Order?
 - iii. Whether the Application has met the condition for grant of injunctive relief?
 - iv. Whether an Order of Status Quo can be made to validate and sanction, a brazen act of intermeddling with the estate of a deceased?
22. The Court has considered the emerging Issues as framed in the sequence and order of importance

Whether the Applicants presented sufficient evidence and met the conditions to warrant revocation or annulment of the grant?

23. Section 76 of the *Law of Succession Act* empowers the Court the powers to revoke a grant provided the conditions stipulated therein have been met. It states that: -

“A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the Court decides, either on application by any interested party or of its own motion: -

- a. That the proceedings to obtain the grant were defective in substance;
- b. That the grant was obtained fraudulently by the making of a false statement or by the concealment from the Court of something material to the case;
- c. That the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
- d. That the person to whom the grant was made has failed, after due notice and without reasonable cause either: -
 - i. To apply for confirmation of the grant within one year from the date thereof, or such longer period as the Court has ordered or allowed; or
 - ii. To proceed diligently with the administration of the estate; or
 - iii. To produce to the Court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
 - iv. The grant has become useless and inoperative through subsequent circumstances.”

24. The circumstances in which a grant can be revoked were discussed in the case of *In the Matter of the Estate of L.A.K. (Deceased)* [2014] eKLR: -

“Revocation of grants is regulated by Section 76 of the *Law of Succession Act*. At paragraphs (a), (b) and (c) since the issues raised relate to the process of the making of a grant. A grant may be revoked where the proceedings leading up to its making were defective, or were



attended by fraud and concealment of important matter, or was obtained by an untrue allegation of a fact essential to the point.”

25. Notably, the power to revoke or uphold a grant is a discretionary one. This principle was enunciated in the persuasive decision in *Albert Imbuga Kisigwa v Recho Kawai Kisigwa* Succession Cause No. 158 of 2000 where Mwita J stated: -

“Power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrongdoing for the Court to invoke section 76 and order to revoke or annul a grant. And when a Court is called upon to exercise this discretion, it must consider interests of all beneficiaries entitled to the deceased’s estate and ensure that the action taken will be for the interest of justice.”

26. The 2nd Application for Revocation of grant is anchored on Section 76 (c) of the *Law of Succession Act* on concealment of important matter, to wit, non-disclosure by the Executors/Respondents, that the Will, had expressly disinherited the 4th Applicant thereby rendering the Will invalid. This Court disagrees with such a path taken by the Applicants as opportunity to challenge to the validity of a will exist.
27. The law is presumptuous as to validity of a Will, until challenged, which is provided for under the *Law of Succession Act* and the *Probate and Administration Rules*, which then would have led to hearing the same viva voce as is the practice.
28. The Applicants further accuse the Executors/Respondent of secretly filing the summons for issuance of grant of Probate of a Written Will, without their consent. This Court finds this limb, to be without basis for the reason that, the instant grant of probate, has been issued testate. The last wish and intention of the deceased person becomes a “shining” light and must constantly inform all motions and proceedings. It is only intestate probate cause(s) that consent of beneficiaries is a condition precedent for filing Summons for issuance of grant of Probate.
29. The Court disagrees with Applicants submission for revocation of grant on the basis that, the Will expressly dis-inherits, the 4th Applicant and that the same, invalidates the will, and that, the Executors named in the Will failed to disclose the same to the Court. The executors have no legal or regulatory obligation to disclose the Court that a beneficiary has been left out of a written will, to which they are named as executors.
30. In my understanding, the failure to include any one or more dependants in the Will does not invalidate it.
31. Section 26 of the *Law of Succession Act*, empowers the Court with the discretion to make such reasonable provision for the dependant who had been left out of the Will. An application may be brought to the Court, by/or on behalf of the 4th Applicant who had been left out of the Will. Therefore, the remedy is not through the invalidation of the Will, but through an application seeking a reasonable provision.
32. The 2nd Application for revocation of grant fails, for lack of merit.

Whether the Application has met the condition for grant of injunctive relief?

33. With regards to the 1st Application dated 11th May, 2022, the Court finds that, the reliefs sought for in prayers (i) and (ii) are overtaken by events as the Executors/Respondents have since filed accounts



before the Court and that the issue of unlimited access into the matrimonial home was not canvassed by current evidence and therefore equally fails.

Whether an Order of Status Quo can be made to validate and sanction, a brazen act of intermeddling with the estate of a deceased?

34. This Court is of the finding that, a status quo order sought shall allow a party or parties that have and/or continue to admit of his/her or their intermeddling with the estate of the deceased by refusing to hand over the assets of the deceased to the executors thereby validating an otherwise criminal conduct and the said relief is untenable as the LR No. Nakuru Municipality/Block 10/52 Maralal Avenue and LR No. Nakuru Municipality/Block 4/225 Ngei Estate form part of the estate and the 2nd and 3rd Applicants have not provided to the Court any basis as to why they continue to deny the Executors/ Respondents control over the management? Such a party and behaviour undermines the rule of law and cannot at the same time expect rule of law reliefs to his/her advantage. The Prayer for an order of status quo is declined for lack of merit and not advancing the law and public policy relating to probate and administration.

Whether the Application(s) have satisfied the conditions for grant of Review Orders, Setting Aside Order?

35. It is settled law that, Review applications in probate matters, are filed under Order 45 of the [Civil Procedure Rules](#) pursuant to Rule 63 of the [Probate and Administration Rules](#). Order 45 Rule 2 (1) of [Civil Procedure Rules](#) 2010 provides that: -

- (1) Any person considering himself aggrieved—
- a. by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
 - b. by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the Court which passed the decree or made the order without unreasonable delay.”

36. It must be recalled that the motion alleged bias and that the judge was misdirected. See [National Bank of Kenya Ltd v. Ndungu Njau](#) (1996) KLR 469 where the Court held that: -

“In my discernment, an order cannot be reviewed because it is shown that the judge decided the matter on a foundation of incorrect procedure and or that his decision revealed a misapprehension of the law, or that he exercised his discretion wrongly in the case. Much less could it be reviewed on the ground that the other judges of coordinate jurisdiction and even the judge whose order is sought to be reviewed have subsequently arrived at different decisions on the same issue” In my opinion the proper way to correct a judge’s alleged misapprehension of the procedure or the substantive law or his alleged wrongful exercise of discretion is to appeal the decision unless the error be apparent on the face of the record and therefore requires no elaborate argument to expose.”

37. The Court finds that 3rd Application for review and/or setting -aside falls short of the requirements and that the impugned decision was made in exercise of judicial discretion, to ensure all rental collections



from the estate of the deceased are pooled and banked in one central account. It would be recalled that the KCB Bank had issued a statutory notice threatening to auction assets forming part of the estate. This Court find no basis to reverse and/or alter or set-aside the Orders and or directions by Matheka J dated the 14th October 2022.

38. The Court finds that, the admitted continued control of and management of LR No. Nakuru Municipality/Block 10/52 Maralal Avenue and LR No. Nakuru Municipality/Block 4/225 Ngei Estate by the 2nd Applicant and 3rd Applicant to be Illegal, unlawful and untenable and constitutes Intermeddling with the assets of the deceased person.

Determinations

39. The 1st Application dated 11th May, 2022, is hereby dismissed for want of merit.
40. The 2nd Application dated 18th May, 2022, is hereby dismissed for want of merit.
41. The 3rd Application dated 19th October, 2022, is hereby dismissed for want of merit.
42. Owing to the foregoing and the failure by the three (3) Applications the Court is guided of its judicial authority donated under Article 159 on the need to deliver justice without undue reliance to technicalities such as in this instance.
43. Indeed, Section 47 of the [Law of Succession Act](#) vests Court with wide discretion in granting protective powers for purposes of safeguarding the estate of a deceased person. It provides: -
- “The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient.”
44. Similarly, Rule 73 of the [Probate and Administration Rules](#) provides that: -
- “73. 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.”
45. The reading of the above sections indicate that the High Court is clothed with wide powers to do what is necessary to ensure that the ends of justice are met.
46. The Court determines that the exclusion of the Susan Wairimu Hassan, has fomented animosity and hostility, especially towards the deceased’s last will and testament, the named executors and that, there is a general consensus on the part of the Applicants as well as on the part of the Executors/Respondents for the need of the 4th Applicant- Susan Wairimu Hassan to get an equal share as the heirs of the deceased.
47. This Court finds this a valid case qualifying for the exercise of the jurisdiction of the Court provided for, in section 47 of the [Laws of Succession Act](#) and rule 73 of the [Probate and Administration](#) and makes the following Orders/Direction: -
- i. An Order is hereby issued directed to the 2nd Applicant-Hassan Wanjohi and the 3rd Applicant-Margaret Nyaguthie Wanjohi to Forthwith hand over to the Executors, the control and management of LR No. Nakuru Municipality/Block 4/225 Ngei Estate and LR No. Nakuru Municipality/Block 10/52 Maralal Avenue respectively.



- ii. An Order is hereby Issued Directed at the Executors/Respondents to forthwith within the next fourteen (14) Days, to select and transmit to the Applicants three (3) names of proposed Audit Firms and three (3) of Firms of Valuers from which 1 Firm of Valuers and an Audit Firm shall be appointed.
- iii. An Order is hereby issued and Directed to the Applicants, to appoint a firm of valuers, within the next 30 days from today, to undertake an exhaustive valuation of all the assets forming part of the estate of the deceased; The valuation of the estate shall be expensed from the estate.
- iv. An Order is hereby Issued Directed at the Applicants, to appoint an Audit firm of valuers, within the next Thirty (30) days from today, to undertake an exhaustive Audit of all the assets, Rental Income, maintenance and recurrent expenses, taxes and outstanding loan(s) forming part of the estate of the deceased; and provide projection(s) of clearing any liabilities attached to the estate. The Audit of the estate shall be expensed from the estate.
- v. That Upon the receipt of valuation report of the estate, Audit report of the estate and the projection of clearing all liabilities, the Court shall, provide clear directions to the Executors and Beneficiaries leading to Confirmation of the Grant and settlement of the estate.
- vi. Parties are Directed by Court to record a Consent on the accommodation of the 4th Applicant to receive an equal share as all the other beneficiaries, the same to be adopted as an order of the Court.
- vii. This succession cause shall be mentioned 20th June 2023 to confirm compliance of the orders and further direction to obtain from the Appointed Auditors and Valuers, the scope of and a schedule of the Audit and the scope and schedule of Valuation with strict timelines.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 18TH DAY OF MAY, 2023

MOHOCHI S.M

JUDGE

In the presence of: -

C.A. Schola

Mr. Matagaro, MOM & Co. Advocates- Applicants

Mr. Matoke Matagaro Sironga Law -Respondents

