



REPUBLIC OF KENYA



**In re Estate of Boniface Matonye Musyoki Maingi alias Maingi Matonye Musyoki (Deceased)
(Succession Cause 19 of 2020) [2023] KEHC 19520 (KLR) (22 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19520 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
SUCCESSION CAUSE 19 OF 2020**

MW MUIGAI, J

JUNE 22, 2023

**IN THE MATTER OF THE ESTATE OF BONIFACE MATONYE
MUSYOKI MAINGI ALIAS MAINGI MATONYE MUSYOKI (DECEASED)**

BETWEEN

TERESIA MUNEE RAPHAEL ADMINISTRATOR

AND

PASCAL MWIKYA MATONYE 1ST PETITIONER

FESTUS KIOKO MATONYE 2ND PETITIONER

VICTOR NDAMBUKI MATONYE 3RD PETITIONER

MUSYOKI MATONYE 4TH PETITIONER

RULING

1. By order in the citation case issued by Hon. G. V Odunga J, vide an application dated 24th June, 2019 the 1st Citor and the 2nd Citee were to jointly take out letters of Administration.
2. The petition dated 19th August, 2020 was on 21st August, 2020, in which the Petitioners Teresia Munee Raphael And Pascal Mwikya Matonye Petitioned This Court For A Grant Of Letters Of Administration Intestate Of The Estate Of boniface Matonye Musyoki Maingi Alias Maingi Matonye (deceased) who died on 25th June, 2003 as per death certificate domiciled in Kenya at Machakos.
3. Pursuant to the Affidavit in Support of Petition for Letters of Administration Intestate, the deceased died intestate and left the following surviving him; -
 - a. Martha Culumba- Wife (deceased)
 - B. Victor Ndambuki- Adult Son



- C. Hellen Kanini Sila-adult Daughter (deceased)
 - D. Magdaline Mueni Joseph-adult Daughter
 - E. Teresia Mune Raphael- Adult Daughter
 - F. Festus Kioko Matonye-adult Son
 - G. Marieta Mutinda Musyoki-adult Daughter (deceased)
 - H. Pascal Mwikya Matonye-adult Son
 - I. Musyoki Matonye- Adult Son
 - J. Clementine Mukii Musyoki- Adult Daughter
4. The Affidavit in support of Petition for Letters of Administration Intestate further mentioned property left by the deceased at the date of his death to be Plot No.2374 & 2566 Mitaboni Adjudication Section, A Total Estimated Value Of The Estate Of Kshs One Hundred And Fifty Million Only (kshs. 150,000,000.00) And Without Liabilities.
 5. The Chief's Letter Dated 25th April, 2020 Confirmed That boniface Matonye Musyoki Maingi Alias Maingi Matonye (deceased) Hailed From Mitaboni Location In Kathiani And That The (deceased) Was Survived The Heirs As Enumerated In The Affidavit In Support Of The Petition For Letters Of Administration Intestate.
 6. Vide The Gazette Notice Dated 13th November,2020 Teresia Mune Raphael And Pascal Mwikya Matonye Both Of P.o Box 2222-90100, Nairobi In Kenya The Deceased's Daughter And Son, Respectively Were Gazetted For Grant Of Letters Of Administration Intestate To The Estate Of boniface Matonye Musyoki Maingi Alias Maingi Matonye Who Died At Kenyatta National Hospital In Kenya On 25th June,2003.
 7. . Grant For Letters Of Administration Made And Issued On 29th December,2020 By This Honorable Court To Teresia Mune Raphael And Pascal Mwikya Matonye As Personal Representatives Of The Deceased's Estate To Render A Just And True Account Thereof As Required By Law.

Summons For Confirmation Of Grant

8. Application For Summons For Confirmation Of Grant Dated 10th August, 2021, The Applicant Sought Orders For The Grant Of Letters Of Administration Issued On 29th December,2020 To Teresia Mune Raphael And Pascal Mwikya Matonye Be Confirmed.
9. Pursuant To Affidavit In Support Of Summons Sworn By Teresia Mune Raphael And Pascal Mwikya Matonye The Administrators Of The Estate Of Boniface Matonye Musyoki Maingi Alias Maingi Matonye, Deposed That Deceased Left The Following Beneficiaries All Care Of Nzaku & Nzaku Advocates P.o Box 35492-00100 And Mulwa, Isika & Mutua Advocates P.o Box 2222-90100 Machakos: -
 - a. Martha Culumba- Wife (Deceased)
 - B. Victor Ndambuki- Adult Son
 - C. Hellen Kanini Sila-Adult Daughter
(Deceased)



- D. Magdaline Mueni Joseph-Adult Daughter
 - E. Teresiamunee Raphael- Adult Daughter
 - F. Festus Kioko Matonye-Adult Son
 - G. Marieta Mutinda Musyoki-Adult Daughter (Deceased)
 - H. Pascal Mwikya Matonye-Adult Son
 - I. Musyoki Matonye- Adult Son
 - J. Clementine Mukii Musyoki- Adult Daughter
10. They deposed that the full inventory of all assets and liabilities by the Deceased as at the time of his death are
- a. Land Parcel No. Mitaboni/mitaboni/2566
 - B. Plot No.2374 Mitaboni Adjudication Section
11. The consent to the mode of distribution of the estate dated 10/8/2021 in which the undersigned dependants within the meaning of Section 29 of the Law of Succession Act proposed the distribution to be as follows: -

List of Properties	Who to Inherit
a. Land parcel No. Mitaboni/Mitaboni/2566	To be shared equally among
b. Plot No. 2374 Mitaboni Adjudication Section	1. Victor Ndambuki Matonye 2. Magdaline Mueni Joseph 3. Teresia Munee Raphael 4. Clementine Mukii Musyoki 5. Festus Kioko Matonye 6. Pascal Mwikya Matonye 7. Musyoki Matonye
Liabilities	Nil

12. Regarding liabilities, it was deposed that the identification and shares of all persons beneficially entitled to the said estate have been ascertained and determined as indicated on the schedule of distribution of assets (annexed)
13. The Affidavit of Protest dated 19th January, 2022 was filed on 20th January 2022, after the Court had issued notices to parties to attend Court and give evidence and consent on behalf of the Petition and/or Summons for confirmation of grant herein and/or explain the challenge or consent to confirmation.

Affidavit Of Protest

14. The Affidavit of Protest was sworn by Pascal Mwikyamatonye, in which he deposed that; he read and the contents of the summons for confirmation of the grant dated 10th August,2021 and formed the



opinion that the distribution proposed therein is not equitable to him and his brothers; lamenting that the estate herein relates to their deceased father and that it is true that the estate of their father constitutes land parcel Land Parcel No. Mitaboni/Mitaboni/ 2566 & Plot No. 2374 Mitaboni Adjudication Section; he further deposed that during his lifetime their father had distributed the land amongst his children and each one of them was in occupation of the land allocated to him/her.

15. He deposed that his father did the distribution between 1984 and 2001 with Festus Kioko Matonye being the first to be allocated his share in 1984 and that taking into account the way his father has allocated the land parcels on the ground he proposed that the estate be shared as follows: -
 - i. Land parcel tile no. Mitaboni/mitaboni/2566 measuring 16.48 Hectares
 - a. Victor Ndambuki Matonye 10 Acres
 - b. Festus Kioko Matonye 12 ½ Acres
 - c. Pascal Mwikya Matonye 20 Acres
 - d. Musyoki Matonye 10 Acres
 - e. Teresia Munee Raphael 2 Acres
 - ii. Plot No.2374 Mitaboni Adjudication Section Measuring 6 Acres
 - a. Victor Ndambuki Matonye 1 ½ Acres
 - b. Festus Kioko Matonye 1 ½ Acres
 - c. Pascal Mwikya Matonye 1 ½ Acres
 - d. Musyoki Matonye 1 ½ Acres

Court Process

16. On 28/7/2021, Hon. D. K Kemei J granted parties leave to file Summons for Confirmation of Grant. On 28/9/2021, the date for confirmation of grant was agreed on.
17. On 28/10/2021 the following beneficiaries consented to the Summons for Confirmation of grant, namely;
 1. Magdalene Mueni -ID 3478866
 2. Teresia M. Raphael -ID 38374945
 3. Clementine M. Musyoki-ID7228685
18. The rest of the beneficiaries failed to attend Court or send a representative, write to the Court through the Deputy Registrar of the Court, file any grievance, participate in the hearing of the Protest or advance any situation circumstances or challenge for the Court to consider.
19. Clementine Musyoki addressed the Court and stated the matter took so long in Court, the sons refused the daughters to inherit from their late father's estate and refused to come to Court. Teresia Raphael told the Court that her son was killed by their people and she sought the Court's intervention. Magdalene Mueni stated their brothers would not come to Court and they were taking portions of land and selling them.



20. The Court issued Witness Summons for the beneficiaries to attend Court. On 16/3/2022, the date given by the Registry as the Court was not sitting on 19/1/2022, the sons of the deceased failed to attend Court despite being served with Court Summons.
21. The Court granted orders that the parties would not be condemned unheard as the Court did not sit on 19/1/2022 and therefore the beneficiaries were to give written consents or file Protests which the other parties would respond to. The respective advocates were to be served with the said directions.
22. Clementine informed this Court that they had come to Court severally and ran out of funds to pay for transport to attend Court. The sisters were/are at advanced ages of 80,70 & 60 years old respectively and urged the Court to expedite the matter.
23. The matter was mentioned on 20/6/2022,19/7/2022 and 5/10/2022 for hearing of the Protest. The protestor and/or Counsel failed to appear in Court and pursue the Protest. The matter was slated to be determined by filing of written submissions.
24. The matter was canvassed vide written submissions.

Submissions

1st Administrator/ Respondents' Submissions

25. The Administrator/ Respondent vide the submissions dated 31st October,2022, submitted that the story before this court is 4 male children of the deceased herein decided to share amongst themselves a whopping 150 Acres of land and left nothing for their 4 sisters; one has since passed on albeit in abject poverty.
26. It was submitted further that two of the said sisters reside in the estate land and are unmarried but have children who they stay with in part of the said estate and that they have stayed there for over 50 years.
27. Submitting that the 3rd is recently married but uses the estate land for her subsistence and that of her husband and children. She is partly the bread winner of her family.
28. It was the 1st Administrators case that the mode of distribution as proposed by the Protestors under para 7 of the 1st protestors Affidavit is basically telling this court to ignore the daughters of the deceased and distribute the entire estate to the male children. The said affidavit outlines that the sons of the deceased claimed that the deceased distributed his estate before his demise, in terms of para 7 of Affidavit of protest; that ever since the said distribution, nobody showed dissatisfaction of the said distribution.
29. Contending that the entire affidavit of Protest is an outright fraud, trickery, malafides, misleading, vexatious and a connivance aimed at robbing and disinheriting not only herself but the daughters of the deceased their rightful share of the estate of their deceased father and in favor of the four sons who feel entitled to the entire 150 Acre forming the estate of the deceased. It is unfortunate that the Protestors feel more equal and entitled than other children of the deceased the same coming in such a time and era where women and daughters are looked at as lesser beneficiaries than men is over under the law.
30. It was the contention of the 1st Administrator that she took care of her father throughout his old age and after the demise of their mother and her father's demise she was left in the custody of all documents pertaining to the estate and on no single day did her father ever draw to her attention a will or any form of distribution of his estate.



31. Urging that to her father all children were equal and it is the reason why her sisters and her were able to live and cultivate the estate land up to date and before the current show of entitlement from the Protestors.
32. It was submitted further that the deceased's estate forms almost 150 Acres which are to be shared equally to his children regardless of their gender and that the deceased has never distributed his estate as alleged as there exists no document whatsoever in proof of the same. It is now 19 years since the demise of the deceased and at no point did the Protestors raise the said allegations as the estate of the deceased is cultivated by all beneficiaries and there is no way the Protestors can claim entitlement only as sons of the deceased.
33. Contending that the proposed distribution by the protestors is totally misleading and a fraud hence it is objected to as the deceased never distributed his estate as alleged and in the proposed manner. Averring that the current protest is mala fides and deliberate by the protestors not only to mislead the court but equally delay other siblings from getting their rightful share of their father's estate and that the Protestors have been taking this Court for a ride.
34. It took the intervention of Hon G.V Odunga J to compel the protestors to accept this succession proceedings to proceed pursuant to the orders issued in a citation case under Succession Cause No.33/2019 and orders issued on 13/11/2019 by Hon. G.V Odunga Jas filed together with the Petition.
35. It was averred that the Replying Affidavit of Magdalene Mueni Joseph and Clementine Mukii Muoki reiterated the contents of the 1st Administrator/ Respondent's Affidavit in which they objected the Protestors proposed mode of distribution and prayed that this Court considers an equal mode of distribution in terms of the Schedule of distribution filed with Summons for Confirmation of Grant dated 10/8/2021
36. The 1st Administrator further submitted on the following issues.
 - a. Whether the deceased left any valid will prior to his demise and bequeathing almost his entire estate to his male Children?
 - b. Whether the daughters of the deceased namely Teresia Munee Raphael, Magdalene Mueni Joseph & Clementine Mukii Muoki are entitled to a mode of distribution equal to that of the 4 sons of the deceased?
37. As regards the issue of whether the deceased left any valid will prior to his demise and bequeathed almost his entire estate to his male children? It was submitted that the Protestors have neither availed a will nor any document with this court in corroboration of their assertions that such serious allegations of the deceased having distributed his estate cannot stand without a document of proof thereof. Contending that the Protestors even quote the exact measurements the deceased bequeathed his male children, averring that the deceased cannot have been so accurate to even quote the acreage per beneficiary minus any document in proof thereof.
38. Reliance was placed on the case of in Re Estate of Francis Mwangi Mbaria (Deceased) (2018) eKLR where Hon. Teresia M Matheka LJ quoted the precedent in Stephen Gitonga M'murithi vs. Faith Ngiramurithi [2015] eKLR that: -

"Section 38 enshrines the principle of equal distribution of the net intestate estate to the surviving children of the deceased irrespective of gender and whether married and comfortable in their marriage or unmarried..."



Therefore, a son will not have priority over a daughter of the deceased simply because he is male; all-male and female siblings- are equal before the law and are entitled to equal protection of the law. (See Article 27 of *the Constitution*).

39. Contending that this court disallows the affidavit of protest for want of truth and merits and proceed to equally distribute the estate as proposed in the Summons for Confirmation of grant and the schedule of distribution therein all dated 10/8/2021.
40. On the issue of whether the daughters of the deceased namely Teresia Muneé Raphael, Magdalene Mueni Joseph & Clementine Mukii Muoki are entitled to a mode of distribution equal to that of the 4 sons of the deceased? It was the position of the 1st Administrator that it is really distasteful rather naïve for the protestors who are sons of the deceased to feel more entitled than their sisters. Urging that even though two of the Respondents are unmarried but have children, it should never be a yardstick to measure whether to that the Respondents should have a slice of their father's estate equal to that of the male children.
41. Submitting that it is not proper for the protestors to propose a mode of distribution that completely sidelines the other Respondents and only allocate 2 Acre piece of land to Teresia Muneé Raphael. Urging to the remaining 148 Acres is divided equally among the male children.
42. Reliance was placed on the case in Re Estate of Francis Mwangi Mbaria (Deceased) supra, where the Hon Teresia M Matheka, LJ stated thus (page 11-12).

Even before the promulgation of *the Constitution* in 2010, Makhandia J (as he then was) in Re estate of Solomon Ngatia Kariuki (deceased) (2008) eKLR, while speaking about the existing provisions of the *Law of Succession Act*, made a very strong statement on the issue of discrimination against daughters generally in succession matters and he said;

“The *Law of Succession Act* does not discriminate between the female and male children or married or unmarried daughters of the deceased person when it comes to the distribution of his estate. All children of the deceased are entitled to stake a claim to the deceased's estate. In seeking to disinherit the protestor under the guise that the protestor was married, her father, brothers and sisters were purportedly invoking a facet of an old Kikuyu Customary Law. Like most other customary laws in this country they are always biased against women and indeed they tend to bar married daughters from inheriting their father's estate. The justification for this rather archaic and primitive customary law demand appears to be that such married daughters should forego their father's inheritance because they are likely to enjoy inheritance of their husband's side of the family.”

43. It was finally contended that the estate of the deceased needs to be distributed in the letters of Summons for confirmation of grant and schedule of distribution filed with this court and dated 10/8/2021 and that the daughters of the deceased namely Teresia Muneé Raphael, Magdalene Mueni Joseph & Clementine Mukii Muoki are entitled to a mode of distribution equal to that of the 4 sons of the deceased as proposed schedule of distribution filed with this court and dated 10/8/2021.

Analysis/ Determination

44. The Court considered the pleadings and submissions on record with regard to administration and distribution of the deceased's estate.
45. The issue for determination that is contested is the distribution of the deceased's estate.



46. Section 107 -112 of the *Evidence Act* provides for the burden and standard of proof in civil/succession cases within one's knowledge.
47. The Protestor's claim is that the deceased distributed the estate among 4 sons between 1984 -2001 before his demise in 2003.
48. The Protestor failed to attend/appear in Court and/or tender evidence in what form when and how the deceased distributed his estate. If it was by Oral Will or Written Will, the same ought to be proved by virtue of Sections 5-11 of LSA.
49. The Protestor also did not present evidence of an inter vivos gift by the deceased. The Protestor did not call any witness(es) clan members who witnessed the same and a written document to the said effect produced.
50. This Court is alive to Kamba customary law where, sons of fathers who marry, they are allocated land to build their homestead, till/farm the land and/or graze livestock. Be that as it may, it would amount to gift inter vivos only if a transfer of the property is made, registration of title, the land allocated contained in deceased's Will, Agreement or Deceased's wishes or confirmation by the family/Clan and/or any other legal way /process to complete the gift inter vivos to be valid.
51. Even then, it would not exclude other children of the deceased and would not be exact as to the acreage unless it is in writing and/or in a Will. The sons and daughters are settled on the suit properties that comprise of the deceased's estate which portions comprise of permanent settlement and development by each of the children shall be considered in the distribution of the estate.
52. In *Micheni Aphaxard Nyaga & 2 Others Vs Robert Njue & 2 Others (2021) eKLR*, it was observed that

“It is evident that where there is an imperfect gift having regard to the requirements, of the necessity for the same must be by way of written memorandum, registered transfer and or declaration of trust in writing, the gift may nonetheless be perfected by the conduct of the parties.”
53. In *Re Estate of Etete Masakhalia (Deceased) [2021] eKLR*, Hon W. Musyoka J made the following observations on gift inter vivos
 - (63) Often at distribution, property is placed before the court, registered in the name of the deceased, but claimed by the survivors or beneficiaries, on grounds that the deceased had made lifetime gifts of it to them. This usually happens with respect to land, where the deceased, during lifetime, had shown portions of his land to his children, especially sons, to put up houses, and to till or graze their animals, without transferring title in such property to them. It could also be done with respect to commercial properties, where the deceased permits his children, upon coming of age, to carry on trade from business premises that he owns, again, without conveying title in such property to the children. In most cases when he dies, the children then claim that they had been gifted those assets during the lifetime of the deceased, and argue that the said assets ought not to be made available for distribution to anyone but themselves.
54. The Protestor as Co administrator filed Petition for Grant of letters of Administration intestate and not for Grant of Probate with Will annexed.
55. The Petition was filed with the List of the beneficiaries and the Chief's letter of 25/4/2020 where the Chief of Mitaboni outlined the beneficiaries of the deceased's estate and those that were deceased



attached copies of death certificates. There has been no contest/conflict as to the children of the deceased both sons and daughters.

56. It is also not contested that the 3 daughters of the deceased reside on the suit properties that comprise of the estate of the deceased for close to 50 years. They have tilled the land, erected permanent structures and lived with their offspring in the midst of allegations of imminent eviction and violence visited on their families so as to be forcefully evicted to facilitate sale of parcels of land by the sons(s) of the deceased.
57. Therefore, since it is conceded that the Protestor(s) son(s) of the deceased and daughters are ALL children of the deceased and the Law of Succession prescribes equal /equitable distribution of the assets that comprise of the deceased's estate, this Court finds no evidence on record to prove that the deceased had distributed the estate to the 4 sons only and in the manner outlined in the proposed mode of distribution outlined in the Protest with actual acreage for each of the sons and small token portions to only 1 daughter in such vast land property. In the absence of tangible and cogent evidence/proof of a valid oral or written Will, gift inter vivos as envisaged by the law, the claim by Protestor is not backed any evidence and cannot be upheld.

Distribution Of Deceased's Estate

58. Section 38 of *Law of Succession Act* provides that;

Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or shall be equally divided among the surviving children.

59. In the case of Peter Karumbi Keingati & 4 Others Vs. Dr. Ann Nyokabi Nguthi & 3 Others C.A. 235 of 2014 (2014) eKLR Mwilu, Kiage & M'Inoti JJA stated as follows:

'As regards to the argument by the Applicants that married daughters ought not to inherit their parent's property because to do so would amount to discrimination to the sons on account of the fact that the married daughters would also inherit property from their parent's in-laws, this court takes the view that the argument as advanced is disingenuous. This is because if a married daughter would benefit by inheriting property from her parents, her husband too would benefit from such inheritance. In a similar fashion, sons who are married, would benefit from property that their wives would have inherited from their parents. In the circumstances therefore, there would be no discrimination. In any event, the decision by a daughter or a son to get married has no bearing at all to whether or not such son or daughter is entitled to inherit the property that comprise the estate of their deceased parents. The issues that courts would grapple with during distribution are the issues anticipated by Section 28 of the *Law of Succession Act*. This court is of the view that the time has come for the ghost of retrogressive customary practices that discriminate against women, which have a tendency of once in a while rearing its ugly head to be forever buried. The ghost has long cast its shadow in our legal system despite of numerous court decisions that have declared such customs to be backward and repugnant to justice and morality. With the promulgation of *the Constitution* 2010, particularly Article 27 that prohibits discrimination of persons on the basis of their sex, marital status or social status, among others, the time has now come for those discriminative cultural practices against women be buried in history.'



60. In Re Estate of John Musambayi Katumanga – deceased [2014] eKLR the Court held as follows:

“The spirit of Part V, especially Sections 35, 38 and 40, is equal distribution, of the intestate estate amongst the children of the deceased. There have been debates on whether the distribution should be equal or equitable. My reading of these provisions is that they envisage equal distribution for the word used in Sections 35(5) and 38 is ‘equally’ as opposed to ‘equitably’. This is the plain language of the provisions. The provisions are in mandatory terms – the property “shall ... be equally divided among the surviving children.” Equal distribution is envisaged regardless of the ages, gender and financial status of the children.”

61. The case-law outlined above speaks to the legal principles that come into play in the distribution of the estate of the deceased estate process. Section 38 LSA speaks of children of the deceased and does not discriminate on gender, age, social standing, character etc save that one is the child of the deceased then one is legally entitled to a reasonable share of the deceased’s estate considering all relevant circumstances to each specific case.
62. This position is amplified by Article 27 of *the Constitution* that spells in clear terms non-discrimination of persons and upholds equality in protection and benefit of all before the law.
63. The proposed mode of distribution by the Protestor is not in consonance with the tenets of the law Section 38 LSA that the 4 sons of the deceased obtain the lion’s share of LR Mitaboni/Mitaboni and of concern the Protestor doubles the acreage of the property against his own brothers and a meagre 2 acres to the 1st Administrator Teresia Munee Raphael.
64. The Protestor for undisclosed reason(s) refused/failed to appear/attend Court to prosecute the Protest despite numerous opportunities availed and service of summons served to him to come to Court. This proposed mode of distribution cannot be justified on any legal basis. In the absence of any proof that it was what the deceased who distributed his estate to his family, the Protest and/or distribution is dismissed.
65. The Court proceeded to determine the Summons for Confirmation filed on 23/8/2021 and the Protest filed on 20/1/2022 on filing of written submissions by parties through Counsel on record after several attempts and opportunities for the sons of the deceased to attend Court and/or file submissions.
66. In light of advanced age of parties, lack of funds to troop to Court severally, non-attendance despite service of Summons and failure to file submissions by the Protestor, this Court invoked its inherent jurisdiction, coupled with the Overriding Objective/Oxygen Principle housed in Section 1A 1B & 3A and fortified by Article 159 of *the Constitution* to expedite the hearing and determination of the dispute which has been in Court since 2020 after offering the Protestor opportunity of fair hearing which was not taken up, this Court determines the matter in absence of some beneficiaries and their written consents as follows;

Disposition

1. Summons for Confirmation filed on 23/8/2021 is upheld and the Protest filed on 20/1/2022 dismissed.
2. Land Parcel No. Mitaboni/Mitaboni/2566 and Plot No. 2374 Mitaboni Adjudication Section shall be shared equally/equitably amongst ALL the children of the deceased.
3. Each beneficiary shall remain on the portion settled on the land developed or cultivated and the said portion shall be taken into account during the distribution of the estate of the deceased.



4. Any beneficiary who is deceased, the share of the child of the deceased shall be apportioned the children of the deceased grandchildren of the deceased herein.
5. No eviction, forceful interference, demolition of permanent structures or destruction of property or crops shall be allowed all beneficiaries, administrators interested parties shall remain in situ pending distribution of the estate of the deceased.
6. Upon certificate of Confirmation of Grant is issued/granted, parties, beneficiaries, administrators and/or interested parties shall obtain surveyors services before subdivision to be approved by the Court.
7. Each party to pay own costs.

**DELIVERED SIGNED & DATED IN OPEN COURT IN MACHAKOS ON 22/6/2023.
(VIRTUAL /PHYSICAL CONFERENCE)**

M.W.MUIGAI

JUDGE

In The Presence Of:

Mr. Mutwiri H/b Mr. Nzaku-for The Administrators

No Appearance - For The Protestors

Geoffrey/Patrick - Court Assistant(s)

