



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of George Aboge Owallo (Deceased) (Succession Cause
405 of 2014) [2023] KEHC 24011 (KLR) (20 October 2023) (Judgment)**

Neutral citation: [2023] KEHC 24011 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MIGORI
SUCCESSION CAUSE 405 OF 2014
RPV WENDOH, J
OCTOBER 20, 2023**

IN THE MATTER OF: GEORGE ABOGE OWALLO.....(DECEASED)

BETWEEN

ORPHA ADONGO ABOGE PETITIONER

AND

LUCY WAMBUI ABOGE OBJECTOR

AND

BEATRICE WAMUYU ABOGE INTERESTED PARTY

GEOFFREY ABICH OWALO INTERESTED PARTY

JUDGMENT

1. This cause relates to the estate of Geroge Aboge Owallo (Deceased) who died intestate on 24/7/1998. This judgement is in respect to the summons for confirmation of grant dated 21//2/2016. The summons proceeded by way of viva voce evidence. As per the directions of 28/3/2017, Orpha Adongo Aboge is the plaintiff, Lucy Wambui Aboge the 1st defendant, Beatrice Wamuyu Aboge the 2nd defendant and Geoffrey Abich Owalo is the interested party.
2. Orpha Adongo Aboge testified as PW1. Learned Counsel Miss Mireri led PW1 through examination in chief. PW1 testified that Lucy Wambui Aboge and Beatrice Wamuyu Aboge are her co-wives and the deceased was their husband; that the deceased acquired plots in Nyeri, Nanyuki and Embakasi. She further testified that she would rely on the affidavit sworn on 18/2/2016 and asked the court to adopt the proposed mode of distribution and the schedule as per the affidavit.
3. On cross - examination, by Mr. Odingo Counsel for the 2nd defendant, PW1 reiterated that she is the first wife of the deceased while Beatrice Aboge and Lucy Aboge are the second and third wives respectively; that the deceased died on 24/7/1998 and by that time Lucy was married for around six



years having been married in 1992; PW1 stated that she had thirteen children in total but only six are alive being four daughters and the rest are sons and they are all married; that Beatrice and Lucy each have four children; that the deceased acquired properties gradually during her time and the second wife's marriage; that the properties include Plot No. 1744/Aguthi/Gatitu, Plot No. A/7 Majengo-Nanyuki except Plot L.R. No. 2638 - Endema Farm which the deceased obtained during the marriage with Lucy.

4. PW1 testified that she currently lives on North Sakwa/Kadera Lwala/449 measuring about 10 acres; that Plot No. Aguthi/Gatitu/1744 has 28 rental rooms which generate income to support the family; that it is this plot she wishes to devolve to Lucy because she stays on that plot and uses the money to educate the children; that Lucy moved to the plot when the deceased died. The plaintiff further stated that she proposes to get 9 rooms, Beatrice to get 9 rooms and 10 rooms to go to Lucy; that Plot No. 2538 Endema Farm is still undeveloped and they are all in the name of the deceased; that she sold Plot Nos. A/7 Majengo - Nanyuki and Plot C36 Nanyuki before proceeding back home. She further testified that all the properties should be shared equally among the wives of the deceased.
5. The plaintiff was further cross - examined by Mr. Kisia for the 1st defendant. She testified that she sold Plot Nos. C36 and A/7 in Nanyuki after her husband died and did not involve the rest of the wives; that she was the one in charge of those plots and she wanted to go back to Migori; that all the wives had their separate homes; that she lives in Sakwa, Beatrice resides in Nyeri at Plot No. A1 - Ruring'u and Lucy stays in Nanyuki Plot No. 1744 and they all occupy the same homes to date. PW1 testified that she wishes the court to go by what she has stated.
6. On 21/5/2015, Mr. Kisia Counsel for Lucy Wambui Aboge - DW1 told the court that his client is agreeable to the mode of distribution proposed by PW1, and she will not tender any evidence. Counsel also withdrew the list of documents filed on 21/5/2018 and told the court that the 1st defendant would adopt her statement in evidence. There is no evidence of a witness statement filed by the 1st defendant on record. On viva voce evidence, the 1st defendant testified that she is the 3rd wife of the deceased; that she is aware of the schedule of distribution by Orpha Adongo Aboge and she is in support of that distribution.
7. During cross-examination by Mr. Oyagi, DW1 stated that she is the 3rd wife of the deceased living on L.R. No. Aguthi/Gatitu/1744; that the deceased had settled all the wives on separate parcels; that Orpha was allocated the shops in Nanyuki and her property has some shops as well; that Beatrice has permanent houses and a 15 roomed rental house. The 2nd wife has enough property.
8. On cross - examination, by Mr. Onyango, the 1st defendant testified that the deceased was buried in South Sakwa/Kadera Lwala/449 and he lived on that land with his brothers; that the brothers are deceased and are entitled to that parcel of land; that George Odhiambo and Geoffrey Abich are children of the brother of the deceased and they are also settled on that land.
9. On re-examination, the 1st defendant testified that they were separately settled by the deceased before his death; that she has lived on Plot No. 1744 all along, Beatrice was settled in Aguthi/Gatitu/691; that no one dealt with the deceased's properties during his lifetime.
10. Beatrice Wamuyu Aboge - DW2 testified that she is the second wife of the deceased and was married in 1978; that she filed an affidavit on the proposed mode of distribution on 8/12/2016; that she invested in those properties and she is entitled to the said properties; that she proposes the property Aguthi/Gatitu/1744 be divided equally among all the wives; that the property Sakwa/Kadera Lwala/449 be subdivided into 3 portions to be shared between the three brothers of the deceased and the portion of the deceased to be further divided among the three (3) wives. The 2nd defendant further fully relied on her affidavit.



11. On cross - examination by Mr. Oguttu Mboya, DW2 testified that she is the second wife of the deceased and she has her own homestead in Nyeri Plot No. 1 Ruring'u and there are 9 rental rooms from where she earns rent; that the other wives have not demanded anything from her; that the third wife lives in Aguthi/Gatitu/1744 which is a rental house but she lives there; that the third wife has a homestead in North Sakwa; that she had a house there which is now half demolished; that she and the third wife have no place to cultivate; that she wants the properties at Aguthi and Sakwa to be divided into three portions; that the deceased had a plot in Njiru Kasarani and she wants it given to her as well; that the land in Endama Farm should be divided into three portions for each wife; that she has a few properties and that is why she wants the fair distribution.
12. On cross- examination by Mr. Kisia she stated that they were living in their respective houses before the deceased died; that no one is interfering with the other; that she has so far acquired a title deed for the property at Ruring'u in her names; that by the time the deceased died, she had the proceeds of where she stays to educate her children; that she has also been in business.
13. On cross-examination by Mr. Onyango, DW2 stated that the land in Sakwa is to devolve to the three children of her husband's father; that the deceased's share is only one third; that although the brothers died, their families live on the said land.
14. On re-examination by Mr. Oyagi, she stated that she worked hard for the properties acquired in the name of the deceased and she used to do business in Kenya and Uganda; that when they got the properties, the third wife was not married yet and therefore she cannot get equal share as the first two wives.
15. The case proceeded with the testimony of Mr. Geoffrey Abich Awalo the interested party. He testified that he wished to adopt his affidavit of 21/5/2018 as his testimony in chief. In his affidavit, Mr. Abich deposed that he was authorized by one George Odhiambo, the other interested party to swear the affidavit on his behalf; that he resides in South Sakwa/Kadera Lawala/449; that their interest in this cause relates to land parcel no. South Sakwa/Kadera Lwala/449; that he is the son of Lucas Abich Owalo and George Odhiambo is the son to Tobias Evans Owalo who were both brothers to the deceased in this cause; that the said parcel was first registered in the name of his grandfather Diensius Owalo Nyauru and upon his death, the deceased herein took out letters of administration and the land was transferred to his name; that the deceased died before he could undertake the process of distribution; that similarly their fathers died before the distribution could take place.
16. The interested party further stated that the deceased held the land in trust for his brothers; that the plaintiff herein has further sub - divided the parcel into three parcels of land sold to other third parties and her sons; that the said sub - divisions should be annulled and the suit land herein should be shared equally among the three families.
17. On cross - examination, by Mr. Oguttu Mboya, the interested party testified that his father was Lucas Abich Owalo; that he is not the son of the deceased; that George Odhiambo was the son to Tobias Evans Owalo and not the deceased; that he is entitled to a share of the property as an entitlement of his father.
18. On cross- examination by Mr. Oyagi, he testified that he lives with his cousins on the land but he has not stated their names as they left home while they were young and they have not returned. On re-examination, he denied that he is a busy - body in this matter.
19. The parties filed their respective submissions. The plaintiff filed her submissions dated 24/8/2018 and submitted on four issues for determination. The first issue, is whether the applicant/objector's mode of distribution was a waste of the court's time. It was submitted that in the case of polygamy as this



one, the parties can proceed by way of mutual consent or as provided under Section 40 (1) of the [Law of Succession Act](#); that distribution of property has never been on the basis of when one got married and how much they brought into the marriage. The plaintiff referred to the findings in the case of [Mary Rono vs Jane Rono & Another](#) Eldoret CACA No. 66 of 2002 where the Court of Appeal held that customary law did not apply and that all children are treated equally. Further reliance was placed in the case of [In the Matter of the Estate of Benson Ndirangu Mathenge, In the Matter of the Estate of Nelson Kimothi Mbithi and Kuria & Another v Kuria](#) (2004) e KLR and [In the Matter of the Estate of Mwangi Giture \(Deceased\)](#) HCSC N0. 1033 of 1996.

20. The plaintiff submitted that if the court is to depart from the norms and go the objector's way, there is no evidence provided to prove that her contribution in the estate was more than any of the other wives. The plaintiff urged the court to find that the proposed mode of distribution has no basis in law.
21. On the second issue, it was submitted that property Plot No. 1A Ruring'u forms part of the estate; that the grant for letters of administration have not been confirmed; that the objector has been collecting money from the said property and she has been staying there; that there is no agreement giving her authority to do so and she ought to render an account of that part of the estate or be liable for intermeddling.
22. On the third issue, is whether this court has jurisdiction to entertain the question of trust raised by the interested parties. The plaintiff submitted that Article 162 (2) of the [Constitution](#) established the Environment and Land Court to hear and determine matters relating to the environment and the use and occupation of, and title to land pursuant to the [ELC Act](#) No. 19 of 2011 Section 3 of the [Act](#); that the question of trust is about ownership of property and not distribution; that the two interested parties are not beneficiaries of the deceased's estate; that their proposal to distribute the estate into half is not supported by the [Law of Succession Act](#). It was further submitted that the issue of trust can only be within the purview of the Environment and Land Court to decide whether the said trust exists.
23. On the fourth issue, is the question of trust raised by the second widow and the interested parties are mere allegations since they have not tabled any evidence; that even if the interested parties' claims are true, trusts in so far as succession claims are concerned, terminate upon attainment of the age of majority and the interested parties are not minors and they were not minors when the deceased died. The plaintiff questioned why the interested parties waited for this long if they knew that they owned part of the property; that they had no claim then and they do not have a claim now; that even if they have a claim, the principles of equity cannot come to their aid as they have been indolent. In conclusion, the plaintiff asked this court to find that her proposed mode of distribution is the most suitable.
24. The 1st defendant filed her submissions on 19/7/2018. She submitted that the plaintiff's schedule of distribution is reflective of how the beneficiaries intended to have the deceased's estate distributed; that the proposal of the 2nd defendant to distribute Aguthi/Gatitu/1744 currently occupied by the 1st defendant and land parcel Sakwa/Kadera Lwala/449 to be subdivided equally among the three households will destabilize the status quo more so how the beneficiaries have settled in the estate over the years; that the 2nd defendant left out the property she occupies out of the tripartite subdivision. The 1st defendant asked this court to adopt the proposal filed by the plaintiff.
25. The 2nd defendant filed her submissions on 22/10/2018. She submitted that her affidavit dated 19/11/2016 should be adopted as the mode of distribution, but if not so, Section 40 of the [Law of Succession Act](#) should prevail; that the widows in this cause will be holding the intestate estates in trust for the said children in equal shares as per Section 41 of the [Law of Succession Act](#); that while collecting rent from Plot No. 1A Ruring'u the 2nd defendant was not intermeddling with the estate of the deceased but she used the same for social and educational upkeep of the deceased's family; that



there was no dispute from the other two widows and such intermeddling did not arise during the trials. The 2nd defendant urged this court to consider distribution as per Section 40 and 41 of the Law of Succession Act.

26. The interested parties filed their submissions on 24/10/2018. They submitted that their claim is that the deceased herein held Plot No. South Sakwa/Kadera Lwala/449 in trust for their respective fathers; that they therefore claim beneficial interest in the said property; that the issue may not be conveniently determined at the stage of confirmation. The interested parties urged the court to set aside the said parcel from the other properties and defer the determination to abide the outcome of the issue of trust in the relevant forum. The interested parties referred the court to the case of RE: Estate of Njuguna Igwina (2017) eKLR.
27. I have considered the application for confirmation of grant dated 18/2/2016, the *viva voce* evidence and the submissions of all parties. The main issues for determination are: -
 - i. Whether L.R. No. North Sakwa/Kadera Lwala/449 should form part of the estate of the deceased for distribution.
 - ii. The distribution of the estate of the deceased.
28. On the first issue, by a ruling of 14/2/2019, Mrima J directed that the question of L.R. No. North Sakwa/Kadera Lwala/449 being held in trust be canvassed in the court with the requisite jurisdiction being the Environment and Land Court. The orders were inter alia that the suit should be filed within 60 days from the date of the ruling and in default, a judgement date be issued. As per the court record, on 25/2/2020, there was confirmation that the suit in the ELC Court had been filed being ELC Case No. 10 of 2020. The court directed as follows: -

“Given the fact that a suit has been filed before the ELC Court and in view of the Orders of the court made vide the ruling delivered on 14/2/2020, confirmation proceedings are hereby stayed pending the outcome of the Migori ELC No. 10 of 2020.”
29. When Counsel for each party appeared before this court on 22/6/2022 except Counsel for the interested party, Mr. Odero holding brief for Ms. Ochwal for the plaintiff, told the court that the interested party had not complied with the ruling of 14/2/2019 and that is why this cause was fixed for judgement. Similarly, on 3/7/2023, Mr. Kisia, Counsel for the 1st respondent reiterated that the interested party has not complied with the said order of pursuing their claim in the Environment and Land Court.
30. However, the Public Information Kiosk on the e-filing judiciary platform, confirms that the interested parties filed a suit in the Environmental and Land Court on 21/2/2022. The citation of the suit is Geoffrey Abich Owalo & Geroge Odhiambo vs Orpah Adongo Aboge. The summary of the claim in court is a declaration that the defendant is holding 1/3 share of suit property and she ought to proceed to subdivide and register in the plaintiffs’ names. The ruling was delivered on 8/6/2023 and the file was transferred to Rongo Law Courts for hearing and determination.
31. Section 3 of the Law of Succession Act defines “estate” as the free estate of the deceased. There being a dispute on the ownership of L.R. No. North Sakwa/Kadera Lwala/449 it cannot be counted as part of the deceased’s estate. The dispute surrounding its ownership must be solved first before this court proceeds with its distribution.



32. The deceased died on 24/7/1998. This succession cause was filed on 7/5/2013. This is well over 25 years after the deceased died. The estate is prone to wastage should the court not move with speed to ensure that the estate of the deceased is preserved from further wastage.
33. The undisputed fact is that the deceased had three wives and 14 surviving children. The 1st wife Orpha Adongo Aboge has 6 children who are all adults, the 2nd wife Beatrice Wamuyu Aboge has 4 children and the 3rd wife has 4 children. The deceased also had the following properties: -
- a. L.R. No. North Sakwa/Kadera Lwala/449
 - b. L.R. No. Aguthi/Gatitu/1744
 - c. Plot Number 1A Ruring'u
 - d. Plot No. A/7 Majengo - Nanyuki
 - e. Plot C36 - Nanyuki
 - f. Plot No. 228 - Njiru Kasarani
 - g. Plot No. 119 - Embakasi Nairobi
 - h. Plot No. 2538 - Endana Farm.
34. The proposed distribution by the plaintiff was supported by the 1st defendant. It was their submission that it was reflective of how the deceased would have distributed his estate. The proposed distribution by the plaintiff is as follows: -
- First House - Orpha Adongo Aboge
- a. L.R. No. North Sakwa/Kadera Lwala/449
 - b. Plot No. A/7 Majengo - Nanyuki
 - c. Plot C36 - Nanyuki
 - d. Posho Mill at Mariwa, North Sakwa.
- Second House - Beatrice Wamuyu Aboge
- a. Plot Number 1A Ruring'u, Nyeri
 - b. Plot No. 228 - Njiru Kasarani
 - c. L.R. No. 2538 - Endana Farm (half share)
- Third House - Lucy Wambui Aboge
- a. L.R. No. Aguthi/Gatitu/1744
 - b. Plot Number 119 - Embakasi Nairobi
 - c. L.R. No. 2538 - Endana Farm (half share)
 - d. Monies at Barclays Bank Account Number 000XXXX0730 Nyeri
34. However, in her testimony, the plaintiff asked this court to distribute the alleged 28 rental houses on L.R. No. Aguthi/Gatitu/1744 among the three wives. She proposed that plaintiff and the 1st defendant each get 9 rooms and the 2nd defendant get 10 rooms. The 2nd defendant testified that the property



in Aguthi/Gatitu/1744 and 1/3 share in Sakwa/Kadera Lwala/449 be subdivided into three portion among the three wives.

35. The deceased died intestate and was polygamous. Section 40 of the [Law of Succession Act](#) provides as follows: -

1. Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.
2. The distribution of the personal and household effects and the residue of the net intestate estate within each house shall then be in accordance with the rules set out in sections 35 to 38.

36. The plain reading of the said provision is that the property of a deceased person regardless of whether it was acquired prior to him entering a polygamous union, shall form part of his estate and divided according to the number of children in each house adding any of his surviving wife or wives.

37. Section 40 of the [Law of Succession Act](#) has been given different interpretations over the years. The Court of Appeal in the case [Mary Rono vs Jane Rono & Another](#) (*supra*) Waki JA had this to say: -

More importantly, section 40 of the Act which applies to the estate makes provision for distribution of the net estate to the “houses according to the number of children in each house, but also adding any wife surviving the deceased as an additional unit to the number of children.” A “house” in a polygamous setting is defined in section 3 of the Act as a “family unit comprising a wife ... and the children of that wife”. There is no discrimination of such children on account of their sex. I think, in the circumstances of this case there is considerable force in the argument by Mr. Gicheru that the estate of the deceased ought to have been distributed more equitably taking into account all relevant factors and the available legal provisions.”

38. In the same case, Omollo JA restated the position of Waki JA as follows:

“I had the advantage of reading in draft form the judgment prepared by WAKI, JA, and while I broadly agree with that judgment, nevertheless wish to point out that I do not understand the learned Judge to be laying down any principle of law that the [Law of Succession Act](#), Cap 160 of the Laws of Kenya, lays down as a requirement that heirs of a deceased person must inherit equal portions of the estate where such a deceased dies intestate and that a judge has no discretion but to apply the principle of equality as was submitted before us by Mr. Gicheru. I can find no such provision in the Act. Section 40 (1) of the Act...”

39. This court in a ruling delivered Succession Cause No. 21 of 2018 *In the Matter of the Estate of Thomas Monanka Nyageta (Deceased) Agnes Gati Chacha vs Sprinah Nchagwa Chacha*(unreported) held as follows: -

“To my mind, the hands of the court are not tied to the provisions of Section 40 of the [Law of Succession Act](#). Instead, the courts have unfettered discretion to distribute the property in an equitable and not in an equal manner. The provision provides that one of the considerations in distribution of the property is in the number of children in each household as opposed to equally among each household. The latter reasoning/interpretation of the provision would mean that if one household has one child it would be considered to be on an equal level with a household with ten children. This in itself amounts to discrimination.”



40. Mumbi Ngugi J (as she then was) observed as much in the case of *The Estate of the Late George Cheriwo Chepkosiom (Deceased)* (2017) eKLR as follows: -

"For the courts to perpetuate the perpetration of the injustice on the basis of section 40 of the *Law of Succession Act* is to abdicate their constitutional responsibility to do justice. The principle of equality and non-discrimination is at the core of the sovereign law of this land, *the Constitution*. For a court, therefore, to apply any law in a manner that is discriminatory on the basis of sex, or any of the prohibited grounds of discrimination, or to apply a provision of the law that is discriminatory, as section 40 admittedly is, or to consider itself bound by such discriminatory law, is to fail to meet the constitutional demands imposed on it."

41. According to the statutory declaration of the deceased sworn and dated 19/8/1998, he married the plaintiff on 26/12/1966 and the 2nd defendant on 22/4/1978. According to the testimony of the plaintiff, the 3rd defendant got married to the deceased in the year 1992. The Chief's letter of Sakwa Location dated 2/5/2013, indicates that all the children from the three houses are of the age of majority. There is no clear evidence given to this court on the years when the said deceased's properties were purchased. The only sale agreement on record is that one of Plot No. 1A Ruring'u situated in the Nyeri Municipality.
42. The plaintiff admitted that she sold Plot No. A/7 Majengo in Nanyuki and Plot C36 in Nanyuki. These two properties are not being claimed by the other two wives. The other properties not in contention are Plot No. 1 "A" Ruring'u in Nyeri and Plot No. 228 in Njiru Kasarani which parties are in agreement should go to the second house, while Plot No. 119, in Embakasi Nairobi and monies at Barclays Bank Account Number 000XXXX730 Nyeri should be allocated to the third house.
43. The contention is over in the property known as L.R. No. 2538 in Endama Farm. The plaintiff proposed that the second and the third houses do take half share each while the 2nd defendant proposed that the property be divided equally between the three houses. The other property in contention is L.R. No. Aguthi/Gatitu/1744 where the plaintiff and the 1st defendant contend that the alleged 28 rental houses should be shared among them. The proposal is that the first and the second house each get 9 houses while the third house gets 10 houses. The 2nd defendant who is the second wife, is of the opinion that the rental properties should be divided equally since she heavily invested in them. It was the 1st defendant's testimony that the 2nd defendant has a permanent house and a 15 roomed rental house where she currently stays. This fact has not been denied or affirmed by the 2nd defendant.
44. On the property L.R. No. 2358 in Endama Farm, there is no title on record to guide the court on its acreage. The plaintiff seems not to be keen on having a share of the said property. Therefore, it shall be left for division between the second and the third houses. Besides, the plaintiff already admitted to having sold two other properties which were supposed to belong to her to the exclusion of the other two wives.
45. On the subdivision of the alleged 28 rental rooms on L.R. No. Aguthi/Gatitu/1744. There is no pictorial evidence presented to this court that there are actual rental rooms situate on the said property. From the testimony of all the parties, it seems that they are rental rooms. This is the same property where the third wife lives as her matrimonial home. The title deed dated 13/7/2015 shows that the land is 0.10 Ha, an equivalent of 0.24 Acres. This court shall give a benefit of doubt and ride on the assumption that there are some 28 rental rooms on L.R. No. Aguthi/Gatitu/1744. The first and second houses will each get 9 rental rooms and the third house will get 10 rental rooms. Each party to give their specific details to their respective tenants on how they wish their rent to be remitted.



46. On the property L.R. No. North Sakwa/Kadera Lwala/449 the status quo shall be maintained to await the outcome of the proceedings in ELC Case No. 10 of 2020 filed by the interested parties. The result is that the grant is partially confirmed.

47. The foregoing conclusion is that the matrimonial properties be shared as follows: -

First House - Orpha Adongo Aboge

- i. Plot No. A/7 Majengo - Nanyuki
- ii. Plot C36 - Nanyuki
- iii. L.R. No. Aguthi/Gatitu/1744 - 9 rental rooms.
- iv. Posho Mill at Mariwa, North Sakwa.

Second House - Beatrice Wamuyu Aboge

- i. Plot Number 1A Ruring'u, Nyeri
- ii. Plot No. 228 - Njiru Kasarani
- iii. L.R. No. Aguthi/Gatitu/1744 - 9 rental rooms.
- iv. L.R. No. 2538 - Endama Farm (half share)

Third House - Lucy Wambui Aboge

- i. L.R. No. Aguthi/Gatitu/1744 - The matrimonial home and 10 rental rooms.
- ii. Plot Number 119 - Embakasi Nairobi
- iii. L.R. No. 2538 - Endama Farm (half share)
- iv. Monies at Absa Bank Account Number 000XXXX730 Nyeri Branch.

48. Status quo on L.R. No. North Sakwa/Kadera Lwala/449 be maintained pending the hearing and determination of Migori ELC Case No. 10 of 2020.

49. Mention on 5th March, 2024 to confirm the status of Migori ELC No. 10 of 2020.

DATED, DELIVERED AND SIGNED AT MIGORI THIS 20TH DAY OF OCTOBER, 2023

R. WENDOH

JUDGE

Judgment delivered in the presence of;

Mr. Wafula for the Plaintiff.

Mr. Kisia for the 1st Defendant.

Mr. Omwenga for Odingo for the 2nd Defendant.

Phelix Court Assistants.

