REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

SUCCESSION CAUSE NO. 545 OF 2001

IN THE MATTER OF THE ESTATE OF MULINDO EREMA (DECEASED)

JUDGMENT

1. The application for determination is dated 9th November 2009. It seeks that the grant of letters of administration intestate made herein on 6th February 2001, to Ranson Mwangala Mulindo and Charles Mulindo be confirmed. It is brought at the instance of Ranson Mwangala Mulindo, who I shall refer hereto as the applicant. The deceased died on 17th August 1998. His survivors are identified as ten sons, being Ranson Mwangala, Noah Wanjala, Shaidu Wanjala, Musa Mulindo, Aroton Simiyu Erima, Makhupe Mulindo, Asija Mulindo, Benson, Ishmanil Wawire and Charles Mulindo. The assets available for distribution are listed as Kakamega/Lukume/342 and 357. It is proposed that Kakamega/Lukume/342 be distributed between Ranson Mwangala, Benson Mulindo, Ismail Wawire and Charles Mulindo at the ratios of 7.5:4:4:4 acres, respectively; Kakamega/Lukume/357 is to be devolved to Ranson Mwangala Mulindo, Noah Wanjala, Shaidu Mulindo, Musa Mulindo, Ariton Mulindo and Makhupe Mulindo at the ratios of 2:4:4:4:4:4:3.5 acres, respectively.

2. Ariton Siminyu Erima, Moses Erima Mulindo and Ibrahim Wanjala Mulindo swore an affidavit on 23rd January 2007 in support of the application. I shall refer to three as the respondents. They describe themselves as brothers and sons of the deceased. They identify the family of the deceased as comprised of three wives and seven sons. The widows are said to be the late Asati Nekesa Mulindo, the late Mwanamisi Mulindo and Mariamu Mulindo; and the sons as Ranson Mwangala, Ibrahim Mulindo, Musa Mulindo, Ismael Mulindo, Ariton Siminyu, the late Simon Makhupe, Shaido Mulindo and Noah Wanjala Mulindo. The widow of the late Simon Makhupe, Margaret Makhupe, is listed as a daughter-in-law. Ranson Mwangala Mulindo and Noah Wanjala Mulindo are to be the sons of the late Asati Nekesa. It is averred that the deceased had given S. Kabras/Lukume/960 to Ranson Mwangala Mulindo and S. Kabras/Lukume/962 to Noah Wanjala Mulindo during his lifetime. They state that due to that the remaining property should be shared out amongst the sons of the deceased who were not given any land by the deceased during his lifetime. The land that had remained unshared out is identified as Kakamega/Lukume/342 and 357. They aver that the deceased, before he died, had subdivided the two parcels of land, and shared them out among Ibrahim Mulindo, Ariton Siminyu Mulindo, Musa Mulindo, Ismael Mulindo, the late Simon Makhupe and Shaido Mulindo. They state that the administrators had not disclosed Ariton Siminyu Mulindo, Simon Makhupe and Shaido Wanyama Mulindo, in their petition, as heirs. They also state that the petition included Charles Mulindo, who was not an heir, for he was not related to the deceased. They aver that the sole surviving spouse, Mariamu Mulindo, had been given a portion of Kakamega/Lukume/357, and state that she should be allocated a life interest in that portion. They have attached copies of certificates of official search, in respect of Kakamega/Lukume/357, and Kakamega/Lukume/960 and Kakamega/Lukume/962, dated 23rd July 2001, 25th June 2001 and 20th March 2002, respectively, all registered on 16th July 1975, in the names of Mulindo Elima, Mwangala Mulindo and Noah Wanjala Mulido, respectively.

3. The applicant, Ranson Mwangala Mulindo, died on 21st July 2011, and was substituted as administrator of the estate herein by his sons, Stanley Mwangala, Wilfred Wechuli and Boaz Wanyama, and a grant was issued to them, dated 14th March 2016. I suppose that that substitution also constituted them the applicants to the confirmation application the subject of this judgment.

4. Directions were taken on 5th February 2009 for disposal of the application by way of oral evidence. The said directions did not refer to the confirmation application, but to a revocation application, whose date was not mentioned, and it later transpired that the only revocation application ever filed in the matter had been withdrawn as at the date the directions were being taken. The said directions were the subject of a ruling that I delivered herein on 9th March 2020. The parties hereto agreed, on 28th September 2021, to treat the said directions as having been made with respect to the confirmation application, dated 9th November 2005.

5. The application was disposed of by way of oral evidence. The first to testify was Ibrahim Wanjala Mulindo, on 23rd November 2009. He stated that deceased had eight sons, being Renson Mwangala, Noah Wanjala, Simon Mulindo, Antony Mulindo, Moses Mulindo, Ibrahim Wanjala, Ismael Wawire and Shaidoo Wanyama. His wives were dead. He had two pieces of land, being Kakamega/Lukume/342 and 357, measuring 7.8 hectares or 19.5 acres and 10.2 hectares or 26.5 acres, respectively. He proposed that Kakamega/Lukume/342 be shared out between Ibrahim Wanjala, Moses Mulindo and Ismail Wawire; while Kakamega/Lukume/357 be shared between Simon Mulindo, Anthony Simiyu and Shaidoo Wanyama. He stated the families of the sons he had mentioned were in occupation of the two parcels of land. He stated that Charles Mulindo was not a son of the deceased. During cross-examination, he stated that the deceased had had five wives. He said that he did not know the mother of Charles Mulindo. He stated that the deceased called a clan meeting and Kakamega/Lukume/342 was shared

out at that meeting that was held on 7th September 1996. He stated that Kakamega/Lukume/357 was also shared out at the same meeting, and the boundaries fixed then were still intact. He stated that Ranson Mwangala and Noah Wanjala had been given land by the deceased during his lifetime, being S. Kabras/Lukume/960 and 962, respectively. He asserted that S. Kabras/Lukume/357 and S. Kabras/Lukume/962 were one parcel of land before registration.

6. Zachariah Injendi was the next witness. He was the Chief of Lukume Location, West Kabras. He testified on a dispute between Renson Mwangala and Charles Mulindo. He said he did not know Charles Mulindo. He said he could not tell whether or not Charles Mulindo was a son of the deceased, for he did not live in the area.

7. Protus Wanjala Masai followed. He said the deceased was his cousin. He said that he had five wives, and he named them as Asati, Fatuma Khayumbi, Mwanamisi, Mariamu Maero and Sania. He said that Harrison Mwangala and Noah were the children of Asati; while Simon Makhupe, Harrison Simiyu and Musa were the children of Fatuma Khayumbi; Ibrahim Wanjala and Ismael Wawire were the children of Mwanamisi; Mariamu did not have sons, but had daughters, all who got married, and whose names were not disclosed; and Sania too did not have sons, but had daughters, who got married and whose names were not disclosed. He stated that the deceased died possessed of Kakamega/Lukume/342 and 357; while Harrison Mulindo and Noah Wanjala had acquired their own land, being Kakamega/Lukume/960 and 962, respectively. He asserted that Harrison Mulindo and Noah Wanjala acquired their land before demarcation. He said he did not know Charles Mulindo. He said that Kakamega/Lukume/342 and 357 was shared out by the deceased before he died, Kakamega/Lukume/342 to Simon, Ariton and Shaidu, and Kakamega/Lukume/357 to Ibrahim, Ismail and Musa. He stated that each had his own boundary. The sharing out was said to have happened on 7th September 1996 and 8th September 1996, respectively. He said that Harrison and Noah lived on their own land, and refused to attend the sharing because of that. He said that he could not tell the acreage of portions given to the sons. He also stated that although he knew the names of the daughters of the deceased, he had forgotten them after the daughters got married.

8. The case for the applicants was conducted on 17th September 2019. Wilfred Mulindo Wechuli was the first on the stand. He described himself as a grandson of the deceased. He said that the deceased had six wives, but he was able to name only one, Wiwo Asati. He said that the children of the first wife were Ranson Mwangala, Noah Wanjala and Nerima Mulindo; the second wife was said to be the mother of Halima Nakhungu and Charles Mulindo; the children of the third wife were said to be Antony Siminyu, Simon Makhupe and Musa Mulindo; the children of the fourth wife were Esmail, Owire and the late Shito; the fifth wife had Norah Mulindo and Sainab Mulindo; and the sixth wife had Asmin Nawire, Natutu, Saira, Alfsa and Naoba. He died possessed of two parcels of land, measuring in total 45 acres. He stated that he was going by the proposals made by the original applicant in the confirmation application. He said that the sons should have the land equally, that is to say Renson Mwangala, Noah Wanjala, Simon Makhupe, Musa Mulindo, Ebrahim Mulindo, Shaido, Charles Mulindo and Ariton Mulindo. He said that the daughters of the deceased were married, but should get something out of the estate, which he suggested to be two acres, to be held jointly. He stated that Renson Mwangala had S. Kabras/Lukume 960 which he got during land adjudication, but it was not from the deceased. Noah Wanjala too had S. Kabras/Lukume/961, which he also got during land adjudication. He stated that they had acquired the same through occupation. During cross-examination, he conceded that there was a dispute on the paternity of Charles Mulindo. He said that S. Kabras/Lukume/962 was registered in the name of Noah Wanjala, and was 2.8 hectares, and that Ranson Mwangala owned S. Kabras/Lukume/960, which measured 3 hectares. He said that he did not know how Ranson and Noah got those titles. He asserted that the two parcels of land were not given to the two by the deceased, but he conceded that he was only 7 months in 1975 when the registration was done. He said that he did not know where Charles stayed, and that Musa had disappeared with his family. He said that the rest of the family stayed on Kakamega/Lukume/342 and 357, except for Ranson, Noah and Charles.

9. Stanley Mwangala followed. He was another grandson of the deceased, and a son of Ranson Mwangala. He stated that the deceased died possessed of Kakamega/Lukume/342 and 357, and was survived by nine sons. He proposed that the two parcels of land be shared out amongst the nine sons. He stated that S. Kabras/Lukume/960 belonged to Ranson Mwangala, who had acquired it from his own sources, and by occupation. He asserted that he did not get it from the deceased. He said the same applied to S. Kabras/Lukume/961 the property of Noah Wanjala. He said that the daughters of the deceased should also get their share. During cross-examination, he said that Ranson Mwangala had told him that he had acquired S. Kabras/Lukume/960 by occupation. He stated that he acquired the same at the same time when the deceased was acquiring his land, presumably Kakamega/Lukume/342 and 357, and so he got his, while the deceased got his. He said that at that time the other sons of the deceased were small, and could not acquire their own land the way Ranson and Noah did. He asserted that the family of Ranson should get a share of Kakamega/Lukume/342 and 357. He said Charles Mulindo was his uncle. He said he could not tell whether he had a wife and children, adding that he had bought land elsewhere and lived out of the estate. He said that Charles once lived on Kakamega/Lukume/342, but he could not tell when he left, adding that his house was no longer on Kakamega/Lukume/342.

10. Hudson Juma Mwangala followed. He was a grandson of the deceased and a son of Ranson Mwangala. He said that he wanted a share of Kakamega/Lukume/342 and 357. He proposed equal distribution, amongst the nine sons of the deceased. He also proposed that the daughters be allocated 2 acres to share amongst themselves. He asserted that S. Kabras/Lukume/960 belonged to his father, having gotten it during land adjudication. He said that the same was not given to him by the deceased. He testified that the deceased had wanted to distribute Kakamega/Lukume/342 and 357 during his lifetime, but there were wrangles. He did not know about the acreage of the land. He said that Ranson Mwangala was utilizing some of the land, for he had trees on it. During cross-examination, he said Kakamega/Lukume/342 was where Ranson Mwangala had once planted trees, which he said were still there and which they were still harvesting. He asserted that Ranson Mwangala had occupied a part of Kakamega/Lukume/342. He said that Ranson got S. Kabras/Lukume/960 through occupation. He said that that was what he was informed. He said that Kakamega/Lukume/342 was 19.5 acres, while Kakamega/Lukume 357 was 25.5 acres. He said that the deceased acquired Kakamega/Lukume/342 and 357, at the same time when Ranson was acquiring S. Kabras/Lukume/960. He said that these parcels of land were registered in 1975, the same year when he was born. He testified that there had been a dispute by some of the sons of the deceased who were saying that Ranson had already benefited from the estate after being given S. Kabras/Lukume/960, which he asserted was not true. He stated that the same case applied to Noah Wanjala, who had acquired S. Kabras/Lukume/962 during land adjudication. He said that the family of Noah did not occupy Kakamega/Lukume/342 and 357. He stated that his siblings, who testified before him, were not correct when they said that their family did not occupy S. Kabras/Lukume/960.

11. At the close of the oral hearings, the parties were directed to file and serve written submissions. The only written submissions on record are by the respondents. I have read through them and noted the arguments made. I observe that, although the deceased herein died in 1996, after the Law of Succession Act, Cap 160, Laws of Kenya, had come into force, and, therefore, the estate herein is to be distributed strictly in accordance with the said Act, the respondents have not cited a single provision of the Law of Succession Act, nor any relevant case law, to guide the court in identifying the principles and the law to be applied to facts placed on record, and I dare say that the said written

submissions will be of little use, for they merely summarise the facts of the case as stated by the parties. They make no arguments whatsoever on the law that the court should apply in the circumstances, and they do not serve the purpose that written submissions ought to serve, of pointing the court to the relevant law, for the court can and always does, and should, summarise the facts for itself.

12. In confirmation applications, there are two principal factors for the court to consider, appointment of administrators and distribution of the estate. For avoidance of doubt, this is what section 71 of the Law of Succession Act, Cap 160, Laws of Kenya, says:

> "*Confirmation of Grants*
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> *71. Confirmation of grants*
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> *(1) After the expiration of a period of six months, or such shorter period as the court may direct under subsection (3), from the date of any grant of representation, the holder thereof shall apply to the court for confirmation of the grant in order to empower the distribution of any capital assets.*
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> *(2) Subject to subsection (2A), the court to which application is made, or to which any dispute in respect thereof is referred, may—*
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> *(a) if it is satisfied that the grant was rightly made to the applicant, and that he is administering, and will administer, the estate according to law, confirm the grant; or*
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> *(b) if it is not so satisfied, issue to some other person or persons, in accordance with the provisions of sections 56 to 66 of this Act, a confirmed grant of letters of administration in respect of the estate, or so much thereof as may be administered; or*
>
> *(c) order the applicant to deliver or transfer to the holder of a confirmed grant from any other court all assets of the estate then in his hands or under his control; or*
>
> *(d) postpone confirmation of the grant for such period or periods, pending issue of further citations or otherwise, as may seem necessary in all the circumstances of the case:*
>
> *Provided that, in cases of intestacy, the grant of letters of administration shall not be confirmed until the court is satisfied as to the respective identities and shares of all persons beneficially entitled; and when confirmed such grant shall specify all such persons and their respective shares."*

13. The principal purpose of confirmation is distribution of the assets. The proviso to subsection (2) of section 71 requires that the court be satisfied as to whether the administrator had properly ascertained all the persons beneficially entitled to a share in the estate and properly identified the shares due to them. The proviso is emphatic that the grant should not be confirmed before the court is satisfied on that account. The court, should, therefore, not proceed to address the matters that fall under section 71(2), if what is envisaged in the proviso has not been done. The provisions in the proviso have been reproduced in the Probate and Administration Rules at Rule 40(4) as follows:

> "*Where the deceased has died wholly or partially intestate the applicant shall satisfy the court that the identification and shares of all persons entitled to the estate have been ascertained and determined."*

14. Has the proviso to section 71(2) of the Act and Rule 40(4) of the Probate and Administration Rules been complied with? There has been no full disclosure of the persons who are beneficially entitled to the estate of the deceased. When the petition herein was lodged at the registry on 13th November 2001, the petitoners disclosed only five individuals as survivors of the deceased, described as sons. An objection was then raised, by Mwanamisi Mulindo, saying some individuals had been left out of the list in the petition, and that the actual number of survivors was ten, being two widows and eight sons. The confirmation application, dated 9th november 2005, lists ten sons. The respondents to the confirmation application contest the status of Charles Mulindo as a son of the deceased. At the oral hearing of the application that the deceased was a polygamist, the number of wives is disputed. One section of the family, the majority, hold that he had five, while the other section, the minority, say the wives were six. It transpired that the deceased had daughters, indeed two of his wives had daughters only. Yet the daughters were not disclosed in the petition, nor in the summons for confirmation of grant.

15. The deceased died in 1998, many years after the Law of Succesion Act had come into force. Under section 2(1) of the Law of Succession Act, the said statute applied to estates of persons who die after its coming into force. That would include the deceased herein. The deceased died intestate, and Part V of the Law of Succession Act governs intestate succession, where an intestacy happens. In intestacy, distribution would take several forms, depending on whether the deceased was survived by a spouse and children, section 35, or by a spouse without children, section 36, or by children but no spouse, section 38, or by no spouse nor children, section 39, or was a polygamist, section 40. There are exceptions to the intestacy provisions under sections 32 and 33, with respect to property situated in certain places; however, those exceptions do not include Kakamega, and, therefore, the estate herein fully falls for distribution in accordance with Part V.

16. Under the Law of Sucession Act, there is no distinction made between male and female children. Indeed, the provisions of the Act are gender neutral, and do not conceive children in terms of male and female, except at section 41, for daughters who marry while below sixteen. The Act treates children equally, and it is expected, at distribution, that the estate of the intestate would be shared amongst the sons and daughters without discrimination. I was told that the daughters are all married. That may be so. But marriage is not a disqualifying factor. The daughter of a an intestate, dying after 1st july 1981, is entitled to a share in the intestate estate of her parent, equally with her brother, regardless of whether the daughter is married or not. That then would mean that they ought to be included and involved in the succession cause. Section 51(2)(g) of the Law of Succession Act requires that when an application for representation is made, it shall disclose all the survivors of the deceased, including all his children, without distinction. Rule 7 of the Probate and Administration Rules is in similar terms.

The persons beneficially entitled referred to in the proviso to section 71(2) and Rule 40(4) include all the children of the deceased, encompassing daughters. So any application for confirmation of grant, mounted after 1st july 1981, must dislcose all the children of the deceased including daughters, and where no such disclosure is made, then there would be no compliance with in the proviso to section 71(2) and Rule 40(4), and the court ought not proceed to confirm the grant and distribute the estate before the requirements of those provisions are met.

17. The status or paternity of Charles Mulindo, and of the house of his mother, is contested. Charles Mulindo did not testify at the oral hearing. I shall, however, not determine, at this stage, the question of his status or paternity, as the applicants have to comply with the requitements of the proviso to section 71(2) and Rule 40(4) first. I shall deal comprehensively with those issues thereafter.

18. The deceased died a polygamist, and the provision which should apply is section 40, as the deceased had five or six wives and children. That would mean that distribution of his estate ought to be founded on section 40 of the Law of Succession Act, which provides as follows:

> *"Where intestate was polygamous*
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> *(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.*
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> *(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."*

19. The estate of a polygamist is distributed, according to the above provision, amongst the houses, and the share going to each house depends on the number of survivors in each house. The number of survivors would include widows and children, irrespective of the gender and marital status of the children. Therefore, to actualize section 40, the administrator, in a case where the deceased died a polygamist, must therefore, disclose the number of houses that comprise the estate, and the number of children in each house, disclosing whether the wife in each house had survived the deceased or not. Where some of the children are dead, then their children should be disclosed alongside their uncles and aunts. Such would be grandchildren of the deceased, and it is only that category of grandchildren who should be disclosed. Ideally, that is what the administrators should have done in this case. The estate herein should be distrbuted in accordnace with the provisions of section 40 of the Law of Succession Act. The applicants should revisit the application and group the persons beneficially entitled, including daughters, according to their houses, so that the court can distribute the estate fully in compliance with section 40. Wilfred Mulindo Wechuli mentioned all the persons beneficially entitled from the six houses, they should all have been listed in the confirmation application. Whether the family of the deceased comprised of five or six houses is a matter that I should determine thereafter.

20. It was stated, in *Elizabeth Chepkoech Salat vs. Josephine Chesang Chepkwony Salat* [2015] eKLR, with respect to section 40, as follows:

> *From the consideration of sections 35, 40 and 42 of the Act, the broad principle of law which emerges is that where an intestate was polygamous, the estate, in the first instance, should be divided among the houses according to the number of children in each house adding a surviving wife as an additional unit taking into account any previous benefit to any house. Thereafter the estate devolving on any house is, subject to her life interest distributed by the surviving spouse in exercise of her power of appointment to each beneficiary taking into account previous benefit, if any, to any beneficiary. However, in the event that the life interest is terminated either by remarriage or death, then the net intestate estate devolves upon a house is divided among the surviving beneficiates equally subject to any previous benefit to any beneficiary.*
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> *[30] Section 40 of the Act does not give discretion to a court to deviate from the general principles therein enunciated. Where a matter is contentious and the parties have not reached a consent judgment, the court is bound to apply the statutory provisions. More specifically, the court has no power to substitute the statutory principles for its own notion of what is an equitable or just decision. However, court has a limited residuary discretion within the statutory provisions to make adjustments to the share of each house or of a beneficiary where, for instance, the deceased had during his lifetime settled any property to a house or beneficiary or to decide which property should be disposed of to pay liabilities of the estate or to determine which properties should be retained by each house or several houses in trust.*

21. Which assets make up the estate? There is no dispute that Kakamega/Lukume/342 and 357, also known as S. Kabras/Lukume/342 and 357, are registered in the name of the deceased. These are undisputed assets of the estate. It would appear that the deceased did not have any other assets available for distribute, and, therefore, these are the assets to be shared out amongst the persons that shall be established to be the *bona fide* survivors of the deceased.

22. It has been alleged that some of the members of the family had benefited from *inter vivos* or lifetime gifts, and that section 42 would be relevant. They are the proprietors of Kakamega/Lukume/960 and 962, and they should, according to the respondents, not be considered at distribution. These are two, Ranson Mwangala Mulindo and Noah Wanjala Mulindo, who are the proprietors of S. Kabras/Lukume/960 and Kakamega/Lukume/962. It is claimed that these two parcels of land were given to the two by the deceased, something which is contested. It was alleged that the two parcels were part of Kakamega/Lukume/357. There could be some credence to that, given that all the three assets were registered on the same day, suggesting that S. Kabras/Lukume/960 and Kakamega/Lukume/962 might have been hived off Kakamega/Lukume/357, but the evidence tendered was tenuous. There may be need for the applicants to place a green card for Kakamega/Lukume/357 on record, should one be available, to asist the court settle the matter once and for all.

23. Section 42 of the Law of Succession provides as follows:

> *"42. Previous benefits to be brought into account*

Where—

a) an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or

b) property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35 of this Act,

that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house."

24. So, how is the estate to be distributed? I shall not address my mind to this before the applicants comply with the proviso to section 71(2) and Rule 40(4), group the survivors according to all the houses in compliance with section 40, and place a greencard for Kakamega/Lukume/357 on record.

25. The orders that is shall, therefore, make, to dispose of the application, dated 9th December 2009, are as follows:

(a) That I hereby postpone determination of the said application, and, therefore, confirmation of the grant, until the applicants do the things that I shall order or direct be done here below;

(b) That the applicants shall comply with proviso to section 71(2) and Rule 40(4), by filing a further affidavit, in which they shall disclose all the survivors of the deceased, regardlesss of their gender, according to their respective houses, and indicating the shares to which each one of them is entitled;

(c) That should any survivor of the deceased, male or female, be inclined not to take up their entitlement, they shall file affidavits to renounce their shares;

(d) That in that affidavit, the applicants shall also place a copy of the green card for Kakamega/Lukume/357 on record, should one be available;

(e) That matter shall be mentioned after 45 days, for compliance and allocation of a date for ruling on the final orders;

(f) That each party shall bear their own costs; and

(g) That any party aggrieved by these orders has twenty-eight days leave to move the Court of Appeal appropriately.

26. It is so ordered.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 4TH DAY OF FEBRUARY, 2022

W. MUSYOKA

JUDGE

Mr. Erick Zalo, Court Assistant.

Mr. Munyendo, instructed by Anziya Munyendo & Co., Advocates, for the applicants.

Mr. JJ Mukavale, Advocate, for the respondents.