



**In re Estate of the Late Magayu Kiama alias Magayu s/o Kiama alias Peter Magayu Kiama alias Magayo Kiama (Deceased) (Succession Cause 846 of 2011) [2024] KEHC 14059 (KLR) (13 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 14059 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
SUCCESSION CAUSE 846 OF 2011  
DKN MAGARE, J  
NOVEMBER 13, 2024**

**IN THE MATTER OF THE ESTATE OF THE LATE MAGAYU KIAMA ALIAS MAGAYU S/O KIAMA ALIAS PETER MAGAYU KIAMA ALIAS MAGAYO KIAMA (DECEASED)**

**BETWEEN**

**PETER MWANGI MUTHONI ..... PETITIONER**

**AND**

**JOSEPH KIAMA MAGAYU ..... 1<sup>ST</sup> APPLICANT**

**MIRRIAM WANGUI ..... 2<sup>ND</sup> APPLICANT**

**IDA WANGARI ..... 3<sup>RD</sup> APPLICANT**

**RULING**

1. It is a struggle to know what parties herein are seeking. There is a final judgment of the court but the estate continues to be in court, over 13 years since this cause was filed. In a decision now reported as *In re Estate of Magayu alias Peter Magayu Kiama (Deceased)* [2018] KEHC 8084 (KLR), Mshila J made the following orders on 8/2/2018: -
  - i. The Grant of the written will of the deceased to the Petitioner who is also the named executor in the deceased's will dated the 25/01/2006 is found to be valid;
  - ii. The applicants are found to be dependents of the deceased and are entitled to directly benefit from the deceased's estate;
  - iii. The distribution of Land Parcel Number Aguthi/Gatitu/559 as set out in the Certificate of Confirmation is hereby revoked; the petitioner do make reasonable provision for the three (3) applicants by vesting and transmitting their interest to be excised from the property known as Aguthi/Gatitu/559 only;



- iv. The parties be at liberty to apply for further directions;
  - v. Each party shall bear their own costs.
2. The court continued in paragraphs 30 and 31 of the said judgment as follows:
- It is for the forgoing reasons that this court is satisfied that the testator was possessed with the requisite testamentary capacity to make the testamentary disposition when he signed the WILL on the 25/01/2006; and is further satisfied that there are no valid grounds raised by the applicants challenging the validity of the will;
31. The written WILL dated the 25/01/2006 is therefore found to be valid as it complies with the mandatory provisions of Section 11 of the Law of Succession Act in that it bears the signature of the testator and was attested by two competent witnesses each of whom must have seen the testator sign or affix his mark to the WILL;
3. Having regard to the intricacies of the matter and for the best interest of justice, the court nevertheless stated as follows, in part:
40. Therefore by the very averments in the affidavit made by one of the deceased's son by the name Alfred Muriithi Magayu is an admission in itself that the applicants are children of the deceased; and this court is satisfied that the applicants are the children of the deceased within the meaning of Section 29 of the Law of Succession Act; 43. The applicants evidence is that they were all born on the land known as Aguthi/Gatitu/559 and that the deceased during his lifetime had sub-divided and given them their portions in the land;
44. Going by the applicants evidence their only interest is in the Aguthi/Gatitu/559 property due to the developments they have made thereon; the petitioner stated that interest in this title(s) had already vested in the other beneficiaries but this court notes that no new titles or searches were produced as evidence in support; this court opines that the applicants got wind of the on-goings and nipped any alienation of the properties in the bud when they obtained the order of prohibition;
4. The deceased in this estate died at a ripe old age of 116 years and left behind money in the account, Land Parcel No. Marmanet/North Rumuruti Block 2/1282 (Ndurumo) and Land Parcel No Aguthi/Gatitu/559. According to the Ruling of the court dated 8/2/2018, the deceased left a will which the court declared as valid. The validity of the will is therefore not in dispute. The court found that the petitioner had conceded and pronounced itself as follows:

He had failed to notify all the dependents and also did not obtain their consent. He was said to have been under the impression that the deceased's son Alfred had the mandate of all the dependents; this court opines that had the petitioner taken the trouble of notifying and obtaining the consents of the persons listed in the affidavit during the process of probating the written WILL he would have been made aware of the existence of this other family.

Therefore by the very averments in the affidavit made by one of the deceased's son by the name Alfred Muriithi Magayu is an admission in itself that the applicants are children of the deceased; and this court is satisfied that the applicants are the children of the deceased within the meaning of Section 29 of the Law of Succession Act.



5. However, from the evidence before the court then the 1<sup>st</sup> house and the 2<sup>nd</sup> house share in a certain way, Aguthi/Gatitu/559 while the 2<sup>nd</sup> house occupies Marmanet/North Rumuruti Block 2/1282 (Ndurumo) fully.
6. The will provided for sharing as follows: -
  - a. Land Parcel Number Aguthi/Gatitu/559
    - a) Naomi Wachehu Magayu - Widow
    - b) Josphat Kiama – Son
    - c) Agnes Wanjiru – Daughter
    - d) Alfred Muriithi – Son
    - e) John Maina –Son
    - f) Grand Children Anthony Magayu Ngima, Charles Wamugu Ngima and Kiama Ngima
  - a. Land Parcel Number Marmanet/North Rumuruti Block 2/1282 (Ndurumo) was to be shared as follows: -
    - a) Naomi Wachehu Magayu - Widow
    - b) Josphat Kiama Magayu – Son
    - c) Agnes Wanjiru Magayu – Daughter
    - d) Alfred Muriithi Magayu – Son
    - e) John Maina Magayu –Son
    - f) Grand Children- Anthony Magayu Ngima, Charles Wamugu Ngima and Kiama Ngima
7. Two daughters from the 2<sup>nd</sup> house were left out, that is Lucy Muthoni and Mary Wambui. There is no patent explanation for the same. However, noting the developments of the law, it is possible that they were left out for the very same reason the first house was left out.
8. Regarding the 1<sup>st</sup> house, all the beneficiaries were left out of the will. It is in respect to the 3 that the court made the following order: -

The distribution of parcel number Aguthi/Gatitu/559 as set out in the Certificate of Confirmation is hereby revoked; the petitioner do make reasonable provision for the three (3) applicants by vesting and transmitting their interest to be excised from the property known as Aguthi/Gatitu/559 only;

9. The beneficiaries for the first house were Joseph Kiama Magayu, Mirriam Wangui and Ida Wangui. These are the beneficiaries that the current application relates. In distribution the court will always be guided by the law and *the constitution*. As I was reading this file, the words of the supreme court in the case of Odinga & another v Independent Electoral and Boundaries Commission & 2 others; Aukot & another (Interested Parties); Attorney General & another (Amicus Curiae) (Presidential Election



Petition 1 of 2017) [2017] KESC 42 (KLR) (Election Petitions) (20 September 2017) (Judgment) (with dissent - JB Ojwang & NS Ndungu, SCJJ), kept ringing in my ears:

“The greatness of a nation lies not in the might of its armies important as that is, not in the largeness of its economy, important as that is also. The greatness of a nation lies in its fidelity to *the Constitution* and strict adherence to the rule of law, and above all, the fear of God. The Rule of law ensures that society is governed on the basis of rules and not the might of force. It provides a framework for orderly and objective relationships between citizens in a country. In the Kenyan context, this is underpinned by *the Constitution*.”

10. In looking at the case, the words in Zechariah 4:6 come through, noting that such disputes are not solved through chest thumping but as the holy scriptures said, it is not by might nor by power, but by the Spirit. In this connection, the decision will have to have fidelity to the spirit of the judgment delivered by the court 6 years ago.
11. The deceased left two immovable properties, that is, Land parcel number Marmanet/North Rumuruti Block 2/1282 (Ndurumo) measuring 8.866 hectares (approximately 21.8990 acres) and Land Parcel Number Aguthi/Gatitu/559 measuring approximately 15.3 acres (6.1943 ha). The total acreage for the entire estate was thus 15.0603 ha (37.1990 acres) or thereabouts.
12. It is unknown how much money was in the account and in any case, it has been dealt with under the will and the decision of the court on 8/2/2018.
13. The beneficiaries postulated that each of the 6 beneficiaries got 1.4777 ha (3.6 acres) in Land parcel number Marmanet/North Rumuruti Block 2/1282 (Ndurumo). The court mentioned nothing of this provision.
14. Land Parcel Number Aguthi/Gatitu/559 measures 15.3 acres the respondents seek to have the same subdivided equally. This cannot be emanating from the order of the court of 8.2.2018.
15. The applicants also have set out their own version, including land parcel Land parcel number Marmanet/North Rumuruti Block 2/1282 (Ndurumo). There appears to have been a consent that appears to override the judgment without saying so. The same was not adopted.
16. The court takes note of the fact that there are 2 daughters, Lucy Muthoni and Mary Wambui who were not provided for. However, the court notes that there is no denunciation of their rights. The foregoing should remain in the back of the parties' minds as well as Article 27 of *the constitution* which forbids discrimination of women in all aspects of life.
17. These little issues cumulatively lead to the question of gender mainstreaming going to the back banner. The article provides that every person is equal before the law and has the right to equal protection and equal benefit of the law, and equality includes the full and equal enjoyment of all rights and fundamental freedoms. In that regard women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. This includes rights within families. The judgment of 8/2/2018 applies to the 2 mutatis mutandis. In fact, the beneficiaries were treating them as if they were already provided for. Given that they are no children of a lesser god, I take it that they are equally entitled to benefit from the house of their mother.
18. Before I deal with other issues, it will be remiss of me to miss to postulate that a developing trend where advocates allow clients to sign or thump print with the right hand should be desisted. It is virtually impossible to trace a right thumb print as opposed to the left thumb print which is easily available.



19. Agnes Wanjiru Magayu is still alive. However, the children are already squabbling on how to replace her. Her 3 children are:
  - a. Cyrus Magayu Kiama
  - b. Esther Wambui Thiga
  - c. Lucy Muthoni Magayu
20. Any share due to Agnes Wanjiru Magayu shall be registered in her name. The children must wait for their turn in the queue. There is enough land for their needs but none for their greed. It is unbecoming to inherit the mother while there is no evidence that she is deceased. It is her father's land and in the circumstances the deceased's grandchildren must be called to order.
21. I was invited by the children of Rose Ngima [deceased] to give mini- plots, some measuring 50 square feet to their cousins because they are occupying corners of some plots. These are not children of lesser gods as hitherto stated. They are the full blooded progeny of the deceased herein and must step on their father's land like colossus without fear or intimidation.
22. Given the history of the matter, I do find that any subsequent succession should not be conducted in this matter. Being a probate matter, where there are deceased children, their share shall be registered in the names of the respective estates to be succeeded intestate in those estates. In this concession the estate of Josephat Kiama Magayu.
23. I reject giving a life interest to Agnes Wanjiru Magayu as this will be amending the will. Her share will be hers absolutely to use waste or otherwise deal. It is her father's land and not that of the husband.
24. I have noted that the second house has made suggestions on amending the confirmed grant in respect to Marmanet/North Rumuruti Block 2/1282 (Ndurumo). I shall address that issue shortly in context.
25. I have been requested to adopt a consent of 6/2/2023. The first house relied on Section 40 of the *Law of Succession Act*. The said section is irrelevant as this was a testate succession. The decision of 8/2/2018 is binding on the parties. Neither parties appealed the decision. The said decision has crystalized as an order of this court. I cannot address the same, in view of the doctrine of functus officio.
26. The Applicants propose that Land Parcel Number Aguthi/Gatitu/559 be divided vertically into 2 equal halves, with one portion going to the 1<sup>st</sup> house and another to the 2<sup>nd</sup> house and they propose to get a share in Land Parcel Number Marmanet/North Rumuruti Block 2/1282 (Ndurumo).
27. The calculations by the 1<sup>st</sup> house to get a reasonable provision of 2.55 acres each is reasonable given that the proper calculation will have resulted in 3.6 acres per person. However, the concession that each should get 2.55 acres is insufficient given that it is tied to Land Parcel Number Marmanet/North Rumuruti Block 2/1282 (Ndurumo). The best alternative and in order to avoid conflict, is to have the three members of the first house get 8 acres out of Land Parcel Number Aguthi/Gatitu/559. This will translate to 2.6667 acres. This has to be on one side, especially the most arable and where their developments are.
28. The remainder of 7.3 acres shall go to the road and the 2<sup>nd</sup> house. This is for a good reason – the provision must be made from the net estate. This excludes the public utilities and liabilities. Further, the second house already has the entire Land Parcel Number Marmanet/North Rumuruti Block 2/1282 (Ndurumo) in one side, in particular where they have developments.



29. Further, giving non arable land and curving the road out of the first house's share will grossly under provide for the said house. If there is non-arable or hilly areas, that should remain as part of the net estate to be shared as per the will for the second house.
30. One nagging problem that I am unable to shake as I share the parcels out, is that the will did not exclude the 2 daughters specifically. In that scenario, the 2 shall equally be provided for when subdividing the parcels belonging to the 2<sup>nd</sup> house, being the 7.2 acres portion in Land Parcel Number Aguthi/Gatitu/559 and the whole of Land Parcel Number Marmanet/North Rumuruti Block 2/1282 (Ndurumo).
31. I dismiss with contempt it deserves, the postulation that there should be unequal sharing between the Applicants. That is greed of unparalleled proportions. In the case of Naomi Wangechi Munene & another v Dorcas Wanjiru Gitonga [2016] eKLR, Mativo J, as he then was posited as follows regarding sharing equally and not equitably:

In the present case, this court does not see any reason why the *Law of Succession Act* should not be applied in the distribution of the estate of the deceased. In that regard, Section 29(a) of the *Law of Succession Act* recognizes "children" of the deceased as dependants. It does not state that such children are sons or daughters, either married or unmarried. Any practice that discriminates between the male and female children of a deceased person is retrogressive and cannot supersede *the Constitution* and the *Law of Succession Act*. This court agrees with the holding of Makhandia J (as he then was) in *In Re Estate of Solomon Ngatia Kariuki (deceased)* {2008} eKLR at page 8 where he stated as follows: -

"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."

On the question of distribution, the starting point is to refer to the relevant applicable law. Section 38 of the *Law of Succession Act* provides that:-

"Where an interstate 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 be equally divided among the surviving children"

In my view, the spirit of Part V of the *Law of Succession Act* is equal distribution of the estate amongst the beneficiaries of the deceased. My reading of these provisions is that they envisage equal distribution. The word used in Section 35 (5) and 38 is "equally" as opposed to "equitably." See Musyoka J in *Succ Cause No 399 of 2007, In the Estate of John Musambayi Katumanga-Deceased*.

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. Guided by



the above provisions I find that all the children of the deceased are entitled to equal shares of the deceased's estate.

32. In this regard, while giving room for the deceased's will which has been challenged and upheld, the only question to be determined as indicated above, is the reasonable provision for the first house in Land Parcel Number Aguthi/Gatitu/559 and sharing of the 2<sup>nd</sup> house the remaining portion in Land Parcel Number Aguthi/Gatitu/559 and whole of Marmanet/North Rumuruti Block 2/1282(Ndurumo). The court will not engage in an appeal from the decision of 8/02/2018 by this court, for which there is no appeal by both parties.

33. Section 26 governs provisions for dependants not adequately provided for by will or on intestacy. It states that:-

“Where a person dies after the commencement of this Act, and so far as succession to his property is governed by the provisions of this Act, then on the application by or on behalf of a dependant, the court may, if it is of the opinion that the disposition of the deceased's estate effected by his will, or by gift in contemplation of death, or the law relating to intestacy, or the combination of the will, gift and law, is not such as to make reasonable provision for that dependant, order that such reasonable provision as the court thinks fit shall be made for that dependant out of the deceased's net estate.”

34. The consideration for provision are provided under Section 28 states that:

“In considering whether any order should be made under this part, and if so what order, the court shall have regard to -

- (a) The nature and amount of the deceased's property;
- (b) Any past, present or future capital or income from any source of the dependant;
- (c) The existing and future means and needs of the dependant;
- (d) whether the deceased had made any advancement or other gift to the dependant during his lifetime;
- (e) The conduct of the dependant in relation to the deceased;
- (f) The situation and circumstances of the deceased's other dependants and the beneficiaries under any will;
- (g) The general circumstances of the case, including, so far as can be ascertained, the testator's reason for not making the provision for the dependant.

35. There is no discernable reason he could forget his children from the first marriage. It was not said that he had any differences with them. In the circumstances, the only reason could be due to his advanced age or simply forgetting. Given the circumstances, the best provision out of the net estate is to make as much equal to the parties having regard to the developments and the number of children in both houses. In re Estate of Gurdip Kaur Sagoo [2021] eKLR, M Thande J, addressed the position that where a dependant is left without reasonable provision for their maintenance and is rendered destitute, the Court will step in to make reasonable provision for such dependent:

39. According to the Court of Appeal, a testator's unfettered testamentary freedom given under Section 5 of the Act may only be interfered with, if his will does not provide for those for whom



he was responsible during his lifetime. The Court went on to say as follows, regarding Section 26 of the Act:

This section clearly puts limitations on the testamentary freedom given by section 5. So that if a man by his will disinherits his wife who was dependant on him during his lifetime, the court will interfere with his freedom to dispose of his property by making reasonable provision for the disinherited wife...While the deceased was entitled to dispose of his property as he pleased, he was not entitled to leave his first two wives Alice and Rose without any reasonable provision for their maintenance. (Emphasis added).

40. From the holding in the Ndolo case, it is clear that where a dependant is left without reasonable provision for their maintenance and is rendered destitute, the Court will step in to make reasonable provision for such dependant. A testator's failure to provide for a dependant thereby rendering him destitute is clearly what Section 26 of the Act sought to cure. It is instructive that the Court's power to tinker with the wishes of the deceased is limited to making reasonable provision to an excluded beneficiary and not to give a share that is equal to the other beneficiaries of the estate as of right. As such, a dependant appeals to the discretion of the Court by demonstrating the need for reasonable provision. Thus, being a child of the deceased alone is not enough for the Court to exercise its discretion in favour of Harvinder. The provisions of Section 28 of the Act and Rule 45 of the P & A Rules make it clear that the intention of Parliament was not to give a share or equal share to every excluded dependant. Had this been so, the Court would have been stripped of discretion and the law regarding provision for an excluded dependent would have been couched in mandatory terms.
36. The court has complete discretion in giving the provision. This is more particularly poignant, where there is no reason for leaving out a dependent. Where there are no known reasons, the court should exercise discretion as much as possible to have as nearly equal to the others as possible. Therefore giving 8 to 3 beneficiaries out of the possible 37.199 to be shared between 10 or so beneficiaries is a reasonable provision.
37. This ruling would have been unnecessary had the executor made provision in respect hereof. The order was made and directed the executor to act, over 6 years ago, but he remained indolent.
38. In view of the foregoing, I direct that the grant should be rectified and confirmed in order to give effect to the judgment of 8/2/2018. As the subdivision is done the 8 acres due to the first house should be curved, net of the roads and any public utilities. The issue of the provision for graves is not within the remit of the probate court. The 8 acres due to the first house should remain solid and no deductions thereof should be made or any provision for sharing non arable land.
39. I therefore direct that the subdivision of the estate as ordered by this court on 8.2.2018 be done as follows:
  - a. Land Parcel Number Aguthi/Gatitu/559.
    - i. Joseph Kiama Magayu – son – 2.6667 acres
    - ii. Estate of Mirriam Wangui (deceased)– daughter – 2.6667 acres
    - iii. Ida Wangari Karuga – daughter 2.6667 acres
  - b. After curving out public utility, in particular a road, the remainder to be shared equally among the following:



- i. Naomi Wachehu Magayu – widow 0.9125 acres
  - ii. Josphat Kiama – son 0.9125 acres
  - iii. Lucy Muthoni – daughter 0.9125 acres
  - iv. Agnes Wanjiru – daughter 0.9125 acres
  - v. Mary Wambui – daughter 0.9125 acres
  - vi. Children of the late Rose Ngima  
(Anthony Magayu Ngima,  
Charles Wamugu Ngima and  
Kiama Ngima), as a unit equally in common 0.9125 acres
  - vii. Alfred Muriithi – son 0.9125 acres
  - viii. John Maina –son 0.9125 acres
- a. Marmanet/North Rumuruti Block 2/1282 (Ndurumo)
- i. Naomi Wachehu Magayu – widow 2.7375 acres (1.108Ha)
  - ii. Josphat Kiama – son 2.7375 acres (1.108Ha)
  - iii. Lucy Muthoni - daughter 2.7375 acres (1.108Ha)
  - iv. Agnes Wanjiru – daughter 2.7375 acres (1.108Ha)
  - v. Mary Wambui – daughter 2.7375 acres (1.108Ha)
  - vi. Children of the late Rose Ngima 2.7375 acres (1.108Ha) as a unit equally in common  
(Anthony Magayu Ngima,  
Charles Wamugu Ngima and  
Kiama Ngima),
  - vii. Alfred Muriithi – son 2.7375 acres(1.108Ha)
  - viii. John Maina –son 2.7375 acres(1.108Ha)
40. Except the children of the late Rose Ngima who are in the will, the rest should be registered in the names of the estate of the various deceased’s beneficiaries. The executor shall sign on behalf of the deceased beneficiaries for purposes only of registration of titles until succession is carried out in the beneficiaries’ estates.
41. I thank the parties for putting their best cases forward. However, the court must work within the straight and the narrow to avoid contradicting the decision of the court given on 8/2/2018.
42. Finally, being a testate succession, we have no room to maneuver and start other intestate succession within the cause. Parties must succeed their parents in their own causes. They should not unduly prolong the succession dispute herein.



## Determination

43. The upshot of the foregoing is that I make the following orders having regard to and giving effect to the judgment of the High Court given on 8/2/2018: -
- a. The will provided fully for the second house and as such all children in that house and their mother will share equally the net estate.
  - b. The utilities, particularly the roads, will be taken into consideration before taking into consideration the entitlements of the beneficiaries of the first house out of the net estate as follows:
    - i. Land Parcel Number Aguthi/Gatitu/559.
      1. Joseph Kiama Magayu – son – 2.6667 acres
      2. Estate of Mirriam Wangui (deceased)– daughter – 2.6667 acres
      3. Ida Wangari Karuga – daughter 2.6667 acres
    - ii. Further, upon taking into consideration the provision as above provided in Land Parcel Number Aguthi/Gatitu/559, the executor shall carve out public utility, in particular a road accessing plots in (b)(i) above and the remainder to be shared equally among the following:-
    - iii. Naomi Wachehu Magayu – widow 0.9125 acres
    - iv. Josphat Kiama Magayu – son 0.9125 acres
    - v. Lucy Muthoni Magayu – daughter 0.9125 acres
    - vi. Agnes Wanjiru Magayu – daughter 0.9125 acres
    - vii. Mary Wambui Magayu – daughter 0.9125 acres
    - viii. Children of the late Rose Ngima  
(Anthony Magayu Ngima,  
Charles Wamugu Ngima and  
Kiama Ngima), as a unit equally in common -0.9125 acres
    - ix. Alfred Muriithi Magayu – son 0.9125 acres
    - x. John Maina Magayu –son 0.9125 acres
  - a. Regarding land parcel number Marmanet/North Rumuruti Block 2/1282 (Ndurumo), the same should be shared equally among the widow and all her children equally as follows: -
    - i. Naomi Wachehu Magayu – widow 2.7375 acres(1.108Ha)
    - ii. Josphat Kiama – son 2.7375 acres(1.108Ha)
    - iii. Lucy Muthoni - daughter 2.7375 acres(1.108Ha)
    - iv. Agnes Wanjiru – daughter 2.7375 acres(1.108Ha)
    - v. Mary Wambui – daughter 2.7375 acres(1.108Ha)



- vi. Children of the late Rose Ngima 2.7375 acres(1.108Ha)  
as a unit equally in common (Anthony  
Magayu Ngima,  
Charles Wamugu Ngima and Kiama Ngima),
- vii. Alfred Muriithi – son 2.7375 acres(1.108Ha)
- viii. John Maina –son 2.7375 acres(1.108Ha)
- d. Except the children of the late Rose Ngima who are in the will, the rest should be registered in the names of the estate of the various deceased beneficiaries. The executor shall sign on behalf of the deceased beneficiaries for purposes only of registration of titles until succession is carried out in the deceased beneficiaries' estates.
- e. The executor to conclude the transmission by 14/6/2025.
- f. The second house to bear costs of the executor.
- g. The file is closed.

**DELIVERED, DATED AND SIGNED AT NYERI ON THIS 13<sup>TH</sup> DAY OF NOVEMBER, 2024.  
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

**KIZITO MAGARE**

**JUDGE**

In the presence of:-

Kanyi Ndurumo for the Objectors/Applicant

Mr. Ombongi for Ms. Nanjala for the Respondents

Court Assistant – Jedidah

