REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO. 252 OF 2013

IN THE MATTER OF THE ESTATE OF PETER NDERITU GATUMBO

(DECEASED)

BEATRICE NYAGUTHII NDERITU.....PETITIONER

VERSUS

EDWARD WACHIRA NDERITU

ABIJA NYAMBURA NDERITU ....OBJECTORS

JUDGMENT

1. Peter Nderitu Gatumbo died on the 23/8/2011. A grant of probate of written will was made to Beatrice Nyaguthii Nderitu (the respondent) on the 4/10/2013.

2. Aggrieved by that development Edward Wachira Nderitu and Abija Nyambura Nderitu moved the court vide a summons for revocation of grant dated 2/5/2014 on grounds that the grant was made fraudulently by means of untrue allegations of fact essential on a point of law to justify the grant and the procedure to obtain the same was defective.

3. That summons is opposed and in a replying affidavit Beatrice Nyaguthii Nderitu maintains that she was properly appointed as an administratix of the estate of the deceased as per the wishes of the deceased.

4. Earlier on, the applicants had filed a cross petition for letter of administration.

5. By directions of court recorded on the 17/10/2014, this matter was to be disposed off by way of *viva voce* evidence and by a further consent of the parties recorded on 15/10/2015, it was agreed that the evidence adduced was to be used to resolve both the summons for revocation and the cross petition.

The applicants' case.

6. Four witnesses testified in support of the applicant's case. These are:

1. Charles Warui Nderitu (OW 1)

2. Abijah Nyambura Nderitu (OW 2)

3. Edward Wachira Nderitu (OW 3)

4. George Wilfred Gatumbo (OW 4)

7. Gleaned from the evidence on record, the applicants' case is that the grant herein should be vitiated since no will was left by the deceased. It is urged that the deceased had dealt with the issues about his succession vide the minutes of a meeting held on 21/7/2006 (Exhibit I).

8. That meeting was attended by the deceased's two widows, Abijah Nyambura Mbuthia and Beatrice Nyaguthii Mutahi.

9. The genesis of the meeting was that the deceased had wished to solemnize his marriage to Beatrice (2nd wife) in a church wedding and he wished to confirm that his property was to be bequeathed to all his *"people"* i.e to say, the two widows and all their children.

10. The resolution as per exhibit 1 was that, all the land at Othaya was to be inherited by Abijah Nyambura Mbuthia, the 1st wife. The land at OL Arabel was to be subdivided into two between the two houses and Abijah was to get an extra 5 acres over and above Beatrice.

11. Those minutes are seen to be duly signed by the deceased, Abijah, Beatrice and witnessed by ten individuals.

12. It is the applicants' case that the only assets of the deceased are:

1. **LR. NO. Othaya/Itemeini/245 (2 ½ acres).**

2. **LR. NO. Laikipia/OL Arabel/53 (72 acres).**

13. It is urged that the 1st widow Abijah has eight children and the 2nd widow has six.

14. The applicants' assert that the deceased could not have revoked the 1986 agreement without informing the 1st house.

15. OW 2 testified that she had contributed to the purchase of the land at Ngarua.

16. OW 3 (Edward) testified that before he discovered a grant had been issued, the lawyers for the petitioner/respondent had written to him seeking that he jointly apply for letters of administration with his mother. That letter is dated 13/3/2013. It was only after this that, while preparing to petition for letters of administration through Ms Wahome Gikonyo & Co. Advocates, OW 3 learnt from the Advocate for the petitioner that a will existed and a probate cause had been filed.

17. An objection was lodged as well as a petition by way of cross petition. The applicants' lawyers discovered that a grant had been issued on 4/10/2013. It is OW 3's testimony that the petitioner was all along deceiving the other side.

18. The applicants' challenge the purported will dated 14/2/2005 on grounds that the deceased who was a Chief Personnel Officer at the police headquarters could not have thumbprinted the document as ordinarily he would sign all his documents. By February 2005, the deceased was in good health. He only fell ill in February 2011.

19. The will is further challenged on the basis that the will is not signed on one day by all signatories. Two of the signatories signed on 14/2/2005. The 3rd witness, the Chief signed on the 16/2/2005.

20. OW 3 emphasizes that the document purported to be the will made in 2005 that they were shown by the Chief at his (Chief's) office was a new document and not a 10 year old one.

The respondents' case.

21. The respondent called 3 witnesses inclusive of herself namely:

1. Beatrice Nyaguthii Nderitu

2. Simon Barusei

3. Christopher Muthee Mwangi

22. In a nutshell the respondent's case is that, yes, there was an agreement made in 1986 in a meeting where it was agreed that the 1st wife was to get the Othaya land and the Ngarua land was to be subdivided .

23. PW 1 (Beatrice) testified that the deceased later refused to honour that agreement since the 1st family blocked his planned church wedding to her (Beatrice). He was annoyed.

24. PW 1 further testified that it is after the burial of the deceased that she opened the deceased's box and found a will. She produced the same in evidence (P.Exh 1). She also produced an agreement showing that she bought a tractor claimed to be part of the estate by the applicants. She laid claim to Plot No. 83 Kinamba, She produced a sale agreement. PW 1 disputed the valuation report filed.

25. PW 2 told the court that the deceased went to his (PW 2's) office on the 16/2/2005 with a will dated 14/2/2005. Deceased was accompanied by Christopher Mwangi and Venanzio Kamau Gichura (now deceased). PW 2 asked the deceased to sign the will but he opted to thumbprint it so that no one would ever change it. PW 2 also signed and stamped the will.

26. On cross examination, PW 2 stated that he was left with one copy of the will. Another copy was given to the D.O. The said will was challenged by the Othaya family on the basis that the deceased would not have thumbprinted it as he was capable of signing.

27. Questioned further, PW 2 stated that the properties are not particularized in the will. He added that he knew the deceased owned a plot at Kinamba and he owned a tractor. These two were not included in the will.

28. PW 3's testimony is that the deceased picked him and one Venanzio and they went to the office of the chief Gituamba on the 16/2/2019. The deceased had written a will. The Chief read the will and PW 2 and Venanzio signed it. The deceased thumbprinted stating that no one could alter his thumbprint. PW 2 stated he wrote the date 14/2/2005 against his signature though he signed on 16th.

29. On cross examination, PW 3 stated that he only signed one copy of the will.

30. Both parties filed written submissions after the close of the evidence.

31. I have had occasion to consider the pleadings, the affidavit evidence, the oral evidence and documentary evidence produced as well as the learned submissions by counsel.

32. The following issues emerge for determination;

> **1. Whether the deceased left a valid will.**
>
> **2. If in the negative, should the grant of probate herein be revoked.**
>
> **3. Who should be the administrator(s) of the estate.**
>
> **4. What mode of distribution should be applied.**

33. In our instant suit, what is contentious is a written will. **Section 11** of the **Law of Succession Act** provides as follows;

> **"S 11** No written will shall be valid unless—
>
> > (a) the testator has signed or affixed his mark to the will, or it has been signed by some other person in the presence and by the direction of the testator;
> >
> > (b) the signature or mark of the testator, or the signature of the person signing for him, is so placed that it shall appear that it was intended thereby to give effect to the writing as a will;
> >
> > (c) the will is attested by two or more competent witnesses, each of whom must have seen the testator sign or affix his mark to the will, or have seen some other person sign the will, in the presence and by the direction of the testator, or have received from the testator a personal acknowledgement of his signature or mark, or of the signature of that other person; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary."

34. I have perused the will said to have been executed by the deceased. At a glance, the same is thumbprinted by the deceased and attested to by Christopher Muthee Mwangi (PW 3) and Venanzio Kamau Gichira. But that is where the rosy side to its execution ends.

35. A closer examination shows that the will is written on 14/2/2005 and the deceased affixed his thumbprint in the presence of both his witnesses both present at the same time. It states;

> "This will hereby written today the 14th day of February 2005 and I hereby affix my thumbprint in the presence of both my witnesses both present **<u>at the same time</u>** who in my presence, at my request and in the presence of each other, they hereunto subscribe their names as witnesses."

36. A literal interpretation of that statement and giving words their ordinary meaning shows that the will was written on 14/2/2005 and signed by the testator and witnesses on the same day.

37. Evidence adduced by Christopher Muthee Mwangi is to the effect that he and Venanzio Kamau Gichira were picked by the deceased on 16/2/2005 and they witnessed the will on that day before the Chief.

38. There is therefore a material contradiction between what is contained in the will and the evidence of a witness who is said to have witnessed the said will.

39. Section 11 (c) of the **Law of Succession Act** allows a will to be witnessed in different dates. It must, however, be certainly clear from the will document that, that was the obtaining situation when the will was witnessed.

40. In our instant case, the reading of the document shows that the will was witnessed on the 14/2/2005 yet the oral evidence adduced by PW 2 and PW 3 clearly shows that the will, if at all, was witnessed on the 16/2/2005.

41. The other aspect of the will that has raised controversy is the issue whether the deceased signed or affixed his mark on the purported

will.

42. The will document is seen as having been thumbprinted by the deceased. The applicants challenge this on the basis that the deceased was literate and capable of signing by pen. The petitioner/respondent's position is that the deceased opted to thumbprint so that no one would in future interfere with the document.

43. It is not contested that the deceased was literate and capable of signing. Evidence abounds that in all his past dealings the deceased used to sign documents and not thumbprint them. The objector/applicants having shown that thumbprinting was not the deceased's ***modus operandi***, the burden of proof was discharged.

44. He who alleges proofs. **S.107** and **109** of the **Evidence Act** provides;

> "**S 107(1)** *Whoever desires any court to give judgment as to any legal right or liability* dependent on the existence of facts which he asserts must prove that those facts *exist."*

> "**S 109** The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person."

45. It was incumbent upon the petitioner to prove that the thumbprint on the document was the deceased's. This was never done. Indeed, the petitioner seemed well aware of this duty early enough as in her affidavit sworn on 11/11/2014, she at paragraph 19 thereof stated;

> "**19.** That I call upon the court to subject the will dated 14/2/2005 to forensic examination to confirm that the thumbprint on the said will actually belongs to the deceased."

46. The reliability of the purported will is further punctured by the existence of a plethora of contradictions in the evidence of PW 1, PW 2 and PW 3.

47. PW 3 Christopher Muthee testified that the deceased, Venanzio and himself signed only one original copy of the will and which was left at the Chief's office and the deceased did not carry any copy with him. It is inexplicable then how PW 1, the petitioner found a copy of the will in the box of the deceased and again which copy PW 2, the Chief gave to the D.O as he states in his evidence.

48. Indeed, PW 2, the Chief was categorical that the witnesses signed three original copies of the will and that the deceased carried one copy and the Chief retained one and gave one to the D.O. Between PW 3 and PW 2 it is hard to tell who is the bearer of the truth and more importantly whether the said will was ever executed.

49. In light of the above, the purported will has not been proven to be a valid will within the meaning of **S.11** of the **Law of Succession Act.**

50. Have the objectors achieved the threshold for revocation of grant?

51. **S 76** of the **Law of Succession Act** clearly sets out the circumstances under which a grant whether confirmed or not can be revoked. The section provides;

> "**S.76** A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—
>
> (a) that the proceedings to obtain the grant were defective in substance;
>
> (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
>
> (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
>
> (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either—
>
> (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
>
> (ii) to proceed diligently with the administration of the estate; or
>
> (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
>
> (e) that the grant has become useless and inoperative through subsequent circumstances."

52. The grant of probate herein was issued premised on a will annexed dated 14/2/2005. That will has, as per the preceding paragraphs, been found to be invalid. The proceedings to obtain the grant were thus defective in substance. The threshold for revocation is thus achieved.

53. As to who should be appointed the administrator(s) of the estate of the deceased herein, I note that not much attention of this aspect of the proceedings has been given by the petitioner both in her evidence and submissions by counsel.

54. I note that the objectors have questioned the suitability of Beatrice Nyaguthii Nderitu to be the administrator or even a co-administrator. On the other hand the objectors propose that Edward Wachira Nderitu be appointed as the sole administrator. The said Edward Wachira Nderitu is a son to the deceased and an Advocate of the High Court of Kenya. It is urged that he is conversant with the role of an administrator. He is 53 years old and the youngest in the 1st house.

55. As provided for under **S 66** of the **Law of Succession Act**, the ultimate final decision in the appointment of an administrator of an estate squarely les with the court. That section provides;

> **"S**. **66** *When a deceased has died intestate, the court shall, save as otherwise* expressly provided, have a final discretion as to the person or persons to whom *a grant of letters of administration shall, in the best interests of all concerned, be* made, but shall, without prejudice to that discretion, accept as a general guide the *following order of preference—*
>
> (a) surviving spouse or spouses, with or without association of other beneficiaries;
>
> (b) other beneficiaries entitled on intestacy, with priority according to their respective beneficial interests as provided by Part V;
>
> (c) the Public Trustee; and
>
> (d) creditors:
>
> Provided that, where there is partial intestacy, letters of administration in respect of the intestate estate shall be granted to any executor or executors who prove the will.

56. In exercising that discretion, as stated in **Re estate of JMW [2017]eKLR**

> "The court must be extra careful and cautious in appointment of administrators of an estate who will not waste, damage and or destroy and generally loot and intermeddle with the entire estate. The court must ensure that the best interest of the estate is taken care of. This is a paramount consideration. There is no exclusive gains conferred upon an administrator over and above the other beneficiaries by virtue of being appointed as such."

57. As regards Beatrice Nyaguthii's suitability as an administrator, the evidence available gives a picture of a dodgy and evasive petitioner, who, though counsel for the objectors had written to OW 3 about the lodging of the petition for letters of administration, went ahead to obtain the grant of probate behind the backs of other beneficiaries. With that background, I would not find her a suitable administrator.

58. Am alive to the existence of 2 houses laying claim to the estate. Having a representative of each house as an administrator would seem appropriate to allay any fears of exclusion in decision making in the affairs of the estate.

59. Experience has, however, shown that the appointment of joint administrators from opposing camps more often than not gives rise to unnecessary push and pull fuelled by partisan interests and it is well documented that the courts have had to be called upon to intervene further by ordering such an administrator(s) to execute the necessary documents and it is not uncommon in our jurisdiction to see instances where a deputy registrar has been ordered to execute transmission documents owing to differences between administrators.

60. The court in my view therefore ought to appoint an administrator(s) bearing in mind the necessity to have smooth running of the affairs of the estate.

61. Time is nigh to debunk the myth about the powers of an administrator. The lack of understanding of what the role of an administrator is has unfortunately led to protracted lengthy trials over the appointment of an administrator more often than not occasioning serious loss to estates in time and expense.

62. An administrator is a mere manager of the estate with no exclusive rights over and above the other beneficiaries. The powers and duties of personal representatives are clearly set out under sections 82 and 83 of the Act. I reproduce the 2 sections for their full meaning and effect;

> **"S 82** Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers—
>
> (a) to enforce, by suit or otherwise, all causes of action which, by virtue of any law, survive the deceased or arising out of his death for his personal representative;
>
> (b) to sell or otherwise turn to account, so far as seems necessary or desirable in the execution of their duties, all or any part of the

assets vested in them, as they think best:

Provided that—

(i) any purchase by them of any such assets shall be voidable at the instance of any other person interested in the asset so purchased; and

(ii) no immovable property shall be sold before confirmation of the grant;

(c) to assent, at any time after confirmation of the grant, to the vesting of a specific legacy in the legatee thereof;

(d) to appropriate, at any time after confirmation of the grant, any of the assets vested in them in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased or any other interest or share in his estate, whether or not the subject of a continuing trust, as to them may seem just and reasonable to them according to the respective rights of the persons interested in the estate of the deceased, and for that purpose to ascertain and fix (with the assistance of a duly qualified valuer, where necessary) the value of the respective assets and liabilities of such estate, and to make any transfer which may be requisite for giving effect to such appropriation:

Provided that except so far as otherwise expressly provided by any will—

(i) no appropriation shall be made so as to affect adversely any specific legacy;

(ii) no appropriation shall be made for the benefit of a person absolutely and beneficially entitled in possession without his consent, nor for the purpose of a continuing trust without the consent of either the trustees thereof (not being the personal representatives themselves) or the person for the time being entitled to the income thereof, unless the person whose consent is so required is a minor or of unsound mind, in which case consent on his behalf by his parent or guardian (if any) or by the manager of his estate (if any) or by the court shall be required.

"S 83 Personal representatives shall have the following duties—

(a) to provide and pay out of the estate of the deceased, the expenses of a reasonable funeral for him;

(b) to get in all free property of the deceased, including debts owing to him and moneys payable to his personal representatives by reason of his death;

(c) to pay, out of the estate of the deceased, all expenses of obtaining their grant of representation, and all other reasonable expenses of administration (including estate duty, if any);

(d) to ascertain and pay, out of the estate of the deceased, all his debts;

(e) within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;

(f) subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;

(g) within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration;

(h) to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;

(i) to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.

63. The administrator is thus in a fiduciary position. He is indeed a servant of the estate. He stands to gain no advantage from his position and any attempt to do so is well checked by the provisions of the law.

64. Having ruled out the petitioner, a wife, on grounds alluded to above, the next in equal standing would be Abijah Nyambura. The said Nyambura is advanced in age. I saw her testify. The burden and rigours of administration of the estate herein would be a herculean task for her and I doubt that she has the knowledge, time and energy to manage and wind up the estate. I find her unsuitable.

65. The next in line would be the children. The petitioners' side have not proposed any other beneficiary who would be appointed as an

administrator.

66. Section 56 of the **Law of Succession Act** qualifies as to who cannot be an administrator even if one is a dependant or a beneficiary. A minor or a person of unsound mind cannot be appointed. Again no more than 4 persons can be appointed as administrators.

67. In our instant suit, I note that all the children are adults. To that extent they would each qualify to be administrators.

68. Edward Wachira Nderitu has been proposed to be the administrator by the objectors. He is a son of the deceased. He is 53 years old and an Advocate of the High Court of Kenya. He qualifies for appointment as an administrator within the provisions of **S 56** and **66** of the **Act.**

69. Am alive to the fact that the power of appointment of administrators as reserved by the court is purely a discretory issue (See **Re estate of JMW [2017]eKLR)**. Like all discretions, it must be exercised judiciously.

70. I have already alluded to the need to have a smooth running of the affairs of the estate herein. For that reason, I am averse to the appointment of joint administrators in this matter given the history of acrimony generated here before.

71. I note that the appointed administrator shall be merely a manager, indeed servant of the estate. He or she shall be subject to the Law and Supervision by the court. Edward Wachira Nderitu appears in my view to be a competent and reliable safe pair of hands to manage the estate herein. He has the added advantage of being a legal practitioner. Navigating the processes involved will thus be easy on his part.

72. Having considered all relevant factors and noting the duties and functions of an administrator and further putting into account that all the beneficiaries are adults thus removing the need for a co-administrator, I am satisfied that Edward Wachira Nderitu satisfies the conditions for appointment as the sole administrator of the estate herein.

73. On distribution, the petitioner's position is that the estate be distributed as per the last wishes of the deceased in his last will and testament dated 14/2/2005. That Will has since been found to be invalid.

74. The objectors propose that the estate be distributed in accordance with the agreement dated 21/7/1986 which was signed by the deceased and his two wives. I note that the said agreement is disputed by the petitioner. Notably, the agreement was premised on the 1st family allowing the deceased to solemnize his marriage to Beatrice Nyaguthii the 2nd wife which ceremony never took place. The said agreement is not indicative of the last wishes of the deceased.

75. The said agreement as interpreted into English gives the reason for the talks thus;

> "The reason for the talks is because Peter Nderitu Gatumbo wants to marry Beatrice Nyaguthii Nutahi who is younger. He wants to marry her in church wedding the reason being to clean up the church issues …."

Since the marriage upon which this agreement was pegged never took place, I find the agreement unreliable as the basis upon which to distribute the estate of the deceased.

76. As regards the net estate, the objectors have attempted to show that Abijah Nyambura (1st wife) contributed to the purchase of Title No. Laikipia/OL'Arabel/53. No concrete evidence was tendered in support of this contention. Whoever alleges proves. (S 107 Evidence Act). No proof was laid before court. In any event, should that be the case, a distinction must be drawn between a claim for proprietary interest and interest based on inheritance. The property is registered in the names of the deceased. Perhaps a claim under the Matrimonial Property Act may have been the route to go.

77. In the same vein, the attempt by the objectors to place Plot No. 70 Kinamba and a tractor as assets of the deceased comes a cropper as again, there is no evidence to support the ownership by the deceased. In respect of the two properties, it is the petitioner who has shown evidence that the 2 properties were hers.

78. In view of the above, the applicable law on distribution and which relates to properties Title No. Othaya/Itemeini/245 and Title No. Laikipia/Ol'Arabel/53 would be **Section 40** of the **Act.** That section provides;

> "**S 40** 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.

79. The properties were valued and this makes it easier for the court in balancing out the shares to the various beneficiaries. I am also alive to the need not to unnecessary disrupt the lives of either of the houses in that, I factor in where each house is settled and as much as possible retain each house in their present abodes.

80. In the 1st house, the deceased is survived by a widow and 8 children. In the 2nd house, the deceased is survived by a widow and 6 children. In line with S 40 of the Act, the distribution would thus be to 16 units.

81. As indicated above, valuations on the 2 properties were done. The petitioner in her evidence attempts to challenge the valuation report but she falls short in that she never requested for an independent valuation of her own neither did she present any alternative evidence of the values. The court will thus rely on the valuation report by Ms Prime Valuers.

82. In value terms and applying a ratio of 9:7 (as per the units in the houses), the 1st house should get property worth 10,732,500 while the 2nd house should get property worth 8,347,500.

83. The 1st house (Abijah Nyambura and her children are settled on the Othaya land. The 2nd house has never settled there. I would distribute Title No. Othaya/Itemeini/245 to the 1st house to be shared out equally among the children of the 1st house and including the widow as a unit. This is Sh. 5,100,000 in terms of the worth of the estate.

84. The 1st house is thus entitled to asset worth 5,632,500 from the remainder of the estate. This should be land equivalent to that value to be excised from Title No. Laikipia/Ol'Arabel/53. This translates to 30.5 acres. The remainder, being of 42.4 acres, is to go to the units in the 2nd house in equal shares. This is to include the buildings thereon.

85. With the result that the summons for revocation of grant herein and the cross petition are wholly successful, I allow the same and make the following orders:

1. The grant of probate issued to Beatrice Nyaguthii on 4/10/2013 is revoked.

2. A grant of letters of administration do issue to Edward Wachira Nderitu.

3. The grant issued pursuant to Order 2 above be confirmed and distribution be as per the schedule below;

Property	Who to inherit
1. Othaya/Itemeini/245	To Abijah Nyambura Nderitu and her 8 children in equal shares.
2. Laikipia/OL'Arabel/53 (30.5 acres)	To Abijah Nyambura Nderitu and her 8 children in equal shares.
3. Laikipia/OL'Arabel/53 (42.4 acres)	To Beatrice Nyaguthii Nderitu and her 6 children in equal shares.

4. The administrator to file a progress report in the administration of the estate within 6 months hereof.

5. Each party to bear its own costs.

Dated and **Signed** at **Kisii** this **25th** day of **November 2019.**

A.K NDUNG'U

JUDGE

Delivered at **Nakuru** this **10th** day of **December 2019**.

R. NG'ETICH

JUDG