



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CAUSE NO. 123 OF 1999

(IN THE MATTER OF THE ESTATE OF KARIUKI KIBURU (DECEASED))

RAHAB NJERI KARIUKI.....PETITIONER

VERSUS

1. JOYCE WARUGURU KARIUKI

2. JOHN KIBURU KARIUKI

3. FRANCIS WANJOHI KARIUKI.....PROTESTORS

JUDGMENT

The deceased, Kariuki Kiburu died on 24th July, 1998 aged 90; he was domiciled in Kenya and a resident of Kihome location in the then Nyeri District.

On 2nd March, 1999, the petitioner filed a petition for grant of letters of administration intestate for the deceased's estate; in the affidavit in support of the petition, the petitioner described herself as the wife of the deceased; besides herself she also named **Mary Ndomo Kariuki** and **Joyce Waruguru Kariuki** as the deceased's wives who survived him. The deceased's other survivors were his children named in the same affidavit as:-

1. John Kiburi Kariuki
2. John Kiburi Kariuki
3. Peter Kimengere Kariuki
4. Daniel Kamau Kariuki
5. Joseph Mururu Kariuki
6. Francis Wanjohi Kariuki
7. Charles Ngumo Kariuki
8. Mary Thogori Kariuki

The deceased estate was stated to comprise a land parcel described as **Title No. Mahiga/Kihome/105** measuring approximately **30.7** hectares whose estimated value was indicated to be Kshs 800,000/=. The deceased had no liabilities.

The record shows that the petitioner cited Joyce Waruguru Kariuki, John Kiburu Kariuki and Francis Wanjohi Kariuki to accept or refuse letters of administration and the citation was taken out at the same time the petitioner petitioned for letters of administration. According to the letter from the assistant chief of Kihome sublocation from where the deceased hailed, the citees were apparently from the first house;

they were one of the deceased's widows and her two sons. The three are now the protestors in this cause.

The citees entered appearance as was required of them under **rule 22(4)** of the **Probate and Administration Rules** on 22nd March, 199 and on 30th March, 1999 they filed a petition by way of cross application for grant under **rule 17(5)** of the **Probate and Administration Rules** according to which an objector to the making of the grant to another person can himself petition for grant of letters of administration by way of a cross-application.

They also filed the answer to the petition and an objection to making of the grant on 22nd March, 1999. Under **rule 17(5)** of the **Probate and Administration Rules**, an objection to the making of a grant ordinarily precedes a petition by way of a cross-application.

On 16th April, 1999 letters of administration intestate of the deceased's estate were granted to the petitioner. Subsequently, and more particularly on 23rd June, 2000 the petitioner filed a summons for confirmation of grant and in the affidavit in support of the summons sworn by the petitioner herself on 22nd June, 2000, she listed the deceased's children as stated in the affidavit in support of the petition. She also listed her co-wives as other survivors of the deceased. She proposed to have the deceased's entire estate transferred and registered in her name absolutely.

On 21st February, 2005 the court (Khamoni, J. as he then was) directed that since no protest had been filed against the summons, the summons be fixed for hearing; it was accordingly scheduled for hearing on 14th November, 2005 but soon before then, on 11th November, 2005, the protestors filed an affidavit of protest.

When the matter came up for hearing as scheduled on 14th November,2005 Khamoni, J. noted that the grant could have been confirmed on the material date were it not for the delay caused by actions and omissions of the parties; the learned judge asked the parties to study the court record and move the court appropriately.

Nothing seems to have happened until 18th April, 2008 when the petitioner's counsel sought to withdraw the summons for confirmation of grant dated 22nd June, 2000 on the grounds that some assets comprising the deceased's estate had been left out and also because the petitioner intended to have the estate distributed equally amongst the three houses. The summons was therefore marked as withdrawn with no orders as to costs.

On the material date, that is the 18th April, 2008, the petitioner filed a fresh summons for confirmation of grant dated 17th April, 2008; this time round, she listed more children in the affidavit in support of the petition as having survived the deceased than she had indicated in the affidavit in support of the petition or in the affidavit in support of the withdrawn summons for confirmation of grant. In particular, the deceased's survivors were indicated as follows:-

Name	Description	Status
1. Joyce Waruguru	1st wife	Widow
2. Heron Kariuki	Daughter	Married
3. Milka Wangechi	Daughter	Married
4. John Kiburu	Son	Adult
5. Barnabas Wanjohi	Son	Adult
6. Wambui Kariuki	Daughter	Married
7. Awelia Wanjiru	Daughter	Married
8. Dorcas Wanjiku	Daughter	Married
9. Rachael Kariuki	Daughter	Married
10. Rahab N. Kariuki	2nd wife	Widow
11. John Kiburi Kariuki	son	Deceased

12.Saweria Wangechi	Daughter	Married
13.Lydia Thogori	Daughter	Married
14.Hellen Wanjohi	Daughter	Deceased
15.Daniel Kamau	Son	Adult
16.Grace Wambui	Daughter	Married
17.Margaret Wangui	Daughter	Married
18. Mary N. Kariuki	3rd wife	Widow
19.Felista Wangechi	Daughter	Married
20.Hannah Wambui	Daughter	Married
21.Peter Kimengere	Son	Deceased
22.Mary Thogori	Daughter	Married
23.Joseph Muriru	Son	Adult
24.Regina Njeri	Daughter	Married
25.Beth Wambui	Daughter	Married
26.Charles Ngumo	Son	Adult

Apart from the additional survivors, the petitioner also introduced some more assets which were not in the original list of assets in the affidavit in support of the petition for grant of letters of administration. The assets listed in the affidavit in support of the summons for confirmation of grant are as follows:-

1. Title No. Mahiga/Kihome/105
2. Shares in Plot No. 13/Ndunyu Nyeri County Council
3. Shares in Plot No. 31/Ndunyu Nyeri County Council
4. Shares in Plot No. 25/Ndunyu Nyeri County Council
5. Shares in Plot No. 12 Kihome market Nyeri County Council
6. Shares of KTDA
7. Shares of Makindu Jumapili Society

The petitioner proposed that all these assets be shared equally amongst the three houses.

The protestors protested against the confirmation of grant in the proposed terms and filed an affidavit of protest to that effect. In their affidavit, they swore that the petitioner had omitted other assets comprising the deceased's estate; they named these assets as:-

1. Plot No. 2446 SA Laikipia West measuring 5 acres
2. Plot No. 943 Othaya Mahiga/Chinga Exffaco Limited measuring 2 acres
3. KTDA pump house
4. Water tank

The protestors also opposed the distribution of the deceased's estate equally because in their view, this was not in accordance with the wishes of the deceased; they instead proposed the estate to be distributed as follows:-

1. **Title No. Mahiga/Kihome/105 measuring 30.7 acres**
 - a. Joyce Waruguru to get 12.23 acres
 - b. Rahab Njeri to get 9.23 acres
 - c. Mary Ndomo to get 9.23 acres
2. **Plot No. 244 SA Laikipia West measuring 5 acres**
 - a. Rahab Njeri to get 2 acres
 - b. Mary Ndomo to get 2 acres
 - c. Three widows to share 1 acre
3. **Plot No 943 Othaya, Mahiga/Chinga Exfacco Limited measuring 2 acres to be transferred to**

Joyce Waruguru

4. The deceased's share in Plot No. 13/Ndunyu/Nyeri County Council to be transferred to Joyce Waruguru
5. Plot No. 25 to be transferred to Rahab Njeri
6. Plot No 31 A to be transferred to Mary Ndomo
7. KTDA shares to be shared out amongst the three houses
8. KTDA pump house located on Title No Mahiga/Kihome/105 to be shared out amongst the three houses
9. Water tank to be shared out amongst the three houses.

On 6th October, 2008 directions were taken on the hearing of the summons of confirmation of grant and the affidavit of protest. The court directed that both the summons and protest be heard by way of oral evidence. On the date of the hearing, counsel for the protestors did not appear in court and the Court (Makhandia, J as he then was) confirmed the protest. The confirmation order was, however, reversed by the Court of Appeal in **Civil Appeal No. 278 of 2008**; in that appeal the protestors appealed against the Court's order confirming the grant without them having been given a chance to be heard. While allowing the appeal the Court of Appeal directed that the summons for confirmation of grant and the protest be heard by way of oral evidence by a judge of the High Court at Nyeri other than Makhandia, J (as he then was).

It is against this background that the protest and the summons were heard on 16th March, 2015. Of the three protestors only Francis Wanjohi Kariuki testified. It was his evidence, that his late father had three wives the first of whom was his mother.

As far as the sharing of the land referred to as **Title No. Mahiga/Kihome/105** is concerned, he disputed the proposal to have the land shared equally amongst the three houses. He said that his mother already had three acres of land out of this parcel and that the land available for distribution was 27 acres. According to him, his mother was given the three acres by her parents.

As for the rest of the properties, the protestor proposed that **Plot No. 244 SA Laikipia West** be shared amongst the three houses; **Plot No. 13/Ndunyu/Nyeri County Council** and Plot No. 25 could be given to any of the houses but Plot 31A could be given to either the 2nd house or the 3rd house. The first house did not want anything to do with this particular plot because, according to the protestor, the plot was 'cursed'. Everything else could be shared equally.

What is apparent from the protestor's testimony is that his proposal on the distribution of property was at variance with his depositions in the affidavit of protest.

In cross-examination, the protestor admitted the existence of the Nyeri Chief Magistrates' Court Civil Case No. 216 of 1995 in which **Title No. Mahiga/Kihome/105** was the subject in dispute. He agreed that his father never proceeded to the land control board to have the land sub-divided and thus no consent was ever obtained for subdivision of the land. The case in the magistrates' court, according to the protestor, was never finalised because his father died before its conclusion.

The petitioner, on the other hand, testified that prior to his death, the deceased had sub-divided **Title No. Mahiga/Kihome/105** into three equal parts; he denied that the first house had carved out three acres out of that parcel. She testified that the land should be shared out equally amongst the three houses.

Mary Ndomo Kariuki, the 3rd wife testified that she was given land being **Title No. Laikipia/Ngobit Supuko/Block2/1040** measuring 4 acres. She said that she was married when the deceased had already acquired **Title No. Mahiga/Kihome/105**. She also admitted in cross-examination that she was given the land **Title No. Laikipia/Ngobit/Supuko/Block/1040** by the deceased. Her co-wives Joyce Waruguru was given four acres in Oruku while Rahab was given 5 acres in Olmaran. According to her, they balloted for these parcels of land.

The evidence discloses that the deceased died intestate and therefore the distribution of his estate is,

without debate, subject to intestacy provisions of the **Law of Succession Act, Cap 160 Laws of Kenya**.

One major task that this Court is usually concerned in confirmation proceedings is the establishment of the extent of the deceased's estate and identification of the beneficiaries; it is only then that the court can proceed to distribute the estate where, as in the present cause, the deceased died intestate. Essentially this is what **Section 71** of the **Law of Succession Act**, provides and according to the proviso to that section, no grant can be confirmed until the court is satisfied as to the respective shares and identities of all persons beneficially entitled to the estate. In its pertinent part **section 71** provides:-

71. (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.

(2) ...

(a)...

(b)...

(c)...

(d)...

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 the grant shall specify all such persons and their respective shares.

The court would not ordinarily be satisfied as to the respective shares of all persons beneficially entitled to an estate until the extent of the estate has been established; more often than not, these are questions of evidence although in certain instances they might both be questions fact and law.

The identities of the deceased's estate's beneficiaries is largely not in dispute; the contesting parties are agreed that the deceased was survived by three wives, though one is said to have passed on during the pendency of this cause. It would also appear, at least it was not contested, that the surviving children in each of the three houses are as per the list elaborately set out in the affidavit sworn by the petitioner in support of the summons for confirmation of grant. For some unexplained reason many of these children had been omitted from the list in the affidavit in support of the petition but nothing turned on this omission and the protestors seem not to have been interested in taking any issue on this omission before the confirmation proceedings were taken.

The major point of contention in this cause is the determination of the extent of the deceased's estate and the distribution of the shares of persons beneficially entitled to that estate.

As noted earlier, the only asset listed in the affidavit in support of the petition as comprising the deceased's estate is land **Title No. Mahiga/Kihome/105** and filed alongside the petition was a copy of an extract of records of registration of this particular parcel (or the green card) showing the deceased as its absolute registered proprietor. Both parties were in agreement that this land exists and indeed their dispute revolves around the sharing out of this particular parcel. The approximate area is indicated in the green card as 30.7 hectares although parties have variously indicated in their documents filed in court as **30.7 acres**; I think this is a mistake and I will go by what is indicated in the green card but should it turn out that the acreage indicated in the copy of the green card is an error parties are always at liberty to file the appropriate application for rectification noting that this court solely relies on the documents that parties themselves have submitted in court.

The affidavit of protest and the affidavit in support of summons for confirmation of grant show that apart

from **Title No. Mahiga/Kihome/105**, both the protestors and the petitioner introduced additional properties in the cause as comprising the deceased's estate. These properties on which they both agree were the deceased's and therefore form part of his estate available for distribution are:-

1. Plot No. 13/Ndunyu Nyeri County Council
2. Plot No. 31/Ndunyu Nyeri County Council
3. Plot No. 25/Ndunyu Nyeri County Council
4. Plot No. 12 Kihome market Nyeri County Council
5. Shares in Kenya Tea Development Authority
6. Shares in Makindu Jumapili Society

It is not clear from the petitioner's affidavit why these properties were not included in the affidavit in support of the petition in the first place since this is a mandatory requirement under **section 51** of the Law of Succession Act; in its pertinent parts, that section provides as follows:-

51. (1) An application for a grant of representation shall be made in such form as may be prescribed, signed by the applicant and witnessed in the prescribed manner.

(2) An application shall include information as to -

(a) ...

(b) ...

(c) ...

(d) ...

(e) ...

(f) ...

(g) ...

(h) a full inventory of all the assets and liabilities of the deceased; and

(i) such other matters as may be prescribed.

(3) ...

(a) ...

(i) ...

(ii) ...

(b) ...

(4) No omission of any information from an application shall affect the power of the court to entertain the application.

Subsection (4) suggests that the omission to include any prescribed information is not fatal to an application for grant of representation; this to me implies that unless the omission is ill-motivated or is malicious or is orchestrated to achieve some unlawful or illegal purpose or otherwise it is a deliberate omission in circumstances in which the grant may be revoked under section 76 of the Act, the court may very well entertain the application and make the grant.

In this cause no application for revocation of grant was made or made on any of the grounds related to the omission of some of the assets from the affidavit in support of the petition and, in any event, the contesting parties are in agreement that though certain properties were omitted at the time of filing petition for grant of letters, they have now been brought to the fore and are available for distribution; for my part, I will deal with these additional properties accordingly.

The protestors made reference to two other properties but whose existence was not established; these are described as “KTDA pump house” and a water tank. No evidence was proffered of the existence of these properties. In the absence of any consensus that they exist, it was upon the protestors to prove their existence before this court can distribute them as part of the deceased’s estate; suffice it to say that without such a proof, there would no basis to share them out as part of the estate. For the same reason this court will not distribute what the protestors have referred to as “Plot No. 943 Othaya, Mahiga/Chinga Ex Facco Limited” and Plot No. 2445 A Laikipia West.

Having established the extent of the deceased’s estate, it is appropriate at this juncture to come back to the law applicable on distribution of the estate.

Counsel for the applicant asked the Court to apply **section 40** of the **Law of Succession Act** and distribute the estate in equal shares amongst the three houses; this law provides as follows:-

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.

The protestors’ case, on the other hand, was that his mother, Joyce Waruguru “came with three acres” out of the **30.7 ha** that comprised **Title No. Mahiga/Kihome/105** and therefore the three acres that “she came with” should not be subjected to distribution as part of the deceased’s estate. Apart from the three acres, it was also urged on the protestors’ behalf that the first house contributed to the acquisition of the twenty-seven acres. It was also the protestors’ case that the deceased had made some advancements to two of his three houses during his lifetime and these advancements ought to be taken into account in distribution of the net intestate estate in accordance with the provisions of **section 42** of the **Law of Succession Act**.

Francis Wanyaga Kariuki testified that his mother’s (Joyce Waruguru Kariuki’s) parents gave her the 3acres of land she is alleged to “have come with”. The available evidence, however, shows that the entire parcel of land which constitute **Title No. Mahiga/Kihome/105** was registered in the name of the deceased as early as 1st November, 1958; its proprietorship has no history of any link either to Joyce Waruguru Kariuki or to her parents. Accordingly, there would be no basis of setting apart three acres from this particular land as belonging to Joyce Waruguru Kariuki when there is no evidence of such ownership.

As for the questions of gift *inter vivos* **Title No. Laikipia/Ngobit/Supuko (Wiumirire)/ 1040** measuring **0.7760 ha** is indicated to have initially been registered in the names of John Kaburu Kariuki and Francis Wanyaga Kariuki in 2002. In 2012 the land was transferred to Mary Ndomo Kariuki vide a court decree in **Nanyuki Senior Principal Magistrates’ Court Land Case No. 5 of 2011** between Mary Ndomo Kariuki herself and Francis Wanyaga.

Although the genesis of the dispute in the magistrates’ court is not clear, Mary Ndomo Kariuki testified that she was given the land **Title No. Laikipia/Ngobit/Supuko (Wiumirire)/ 1040** by the deceased; her co-wives, Joyce Waruguru and Rahab Njeri Kariuki were given, by the deceased, 4 acres of land in Oruku and 5 acres in Ol Moran respectively. There was, however, no evidence to support Mary Ndomo Kariuki’s testimony that her co-wives received any land from the deceased during his lifetime; she appears to have been the only beneficiary of the gift *inter vivos*.

The protestors also urged that Rahab Njeri Kariuki, the petitioner was given land parcel **Title No. Sipili/Donyoloip/Block 1 (Laikipia)/3553** which measures **2.03 ha**. A copy of the green card shows that

the first registered proprietor of this particular parcel was Laikipia West Farmers; the land was thereafter transferred to the petitioner but the registration entries in respect of these proprietorships were made on the same date of 4th April, 2007. The deceased died on 24th July, 1998 nine years before the first entry in respect of registration of this land was made. There is simply no evidence that the deceased owned this particular parcel before his demise and in the absence of such evidence it cannot be said with any certainty that this particular parcel was a gift *inter vivos* from the deceased to the petitioner and that it should, therefore, be taken into consideration in the distribution of the net intestate estate.

Section 40 of the **Law of Succession Act** is, no doubt applicable, in the distribution of the deceased's estate to the extent that the deceased was polygamous. The applicability of this provision of the law was dealt with relatively extensively by the Court of Appeal in **Eldoret Civil Appeal No. 66 of 2002, Mary Rono versus Jane Rono & William Rono (2005) eKLR**. In that appeal, the learned counsel for the appellant urged that in a polygamous set up each house must bear an equal measure of the liabilities as much as it should benefit from an equal share of the deceased's estate; in other words, the liabilities and assets of the deceased's estate must be distributed in such a way that they are shared out equally between or amongst the houses, depending on the number of the houses surviving the deceased. The respondents' learned counsel was of the contrary view; he was of the opinion that the first house should get a larger share of the estate considering, amongst other factors, that it contributed more to the acquisition of the estate.

The court addressed these competing arguments and in the leading judgment by Waki, J.A., the learned judge held:-

“I think, in the circumstances of this case there is a considerable force in the argument by Mr Gicheru (for the appellant) that the estate of the deceased ought to have been distributed more equitably taking into account all relevant factors and the available legal provisions. I now take all that into account and come to the conclusion that the distribution of the land, which is the issue falling for determination must be set aside and substituted with an order that the net estate of 192 acres of land be shared out as follows:-

- a. ***Two (2) acres for the farm house now commonly occupied by all members of the family be held in trust by the joint administrators of the estate;***
- b. ***Thirty (30) acres to the first widow, Jane Toroitich Rono***
- c. ***Thirty (30) acres to the second widow, Mary Toroitich Rono***
- d. ***Fourteen decimal four four (14.44) acres to each of the nine children of the deceased.”***

Although the learned judge appeared to agree with the argument by the learned counsel for the appellant that the estate should be shared out ***equally***, he nevertheless stated that the estate ***“ought to have been distributed more equitably...”*** and proceeded to do exactly that ***“taking into account all relevant factors and the available legal provisions.”***

While agreeing with the leading judgment of Waki, J.A., Justice Omolo J.A. discounted any notion that the estate should have been distributed amongst the beneficiaries in equal shares because, in the learned judge's view, there is no such requirement under the Act. The learned judge said:-

“I had the advantage of reading in draft form the judgment prepared by Waki, J.A., and while I broadly agree with that judgment, I 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 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.”

The learned judge proceeded to quote **section 40(1)** of the Act and held that:-

“My understanding of that section is that while the net intestate estate is to be distributed according to houses, each house being treated as a unit, yet the Judge doing the distribution still has discretion to

take into account the number of children in each house. If Parliament had intended that there must be equality between houses, there would have been no need to provide in the section that the number of children in each house be taken into account.

“Nor do I see any provision in the Act that each child must receive the same or equal portion. That would clearly work an injustice particularly in a case of young child who is still to be maintained, educated and generally seen through life. If such a child, whether a girl or a boy were to get an equal inheritance with another who is already working and for whom no school fees and things like that were to be provided, such equality would work an injustice and for my part, I am satisfied that the Act does not provide for that kind of equality.”

The learned judges essentially espoused the principal of *fairness* and *equity* in distribution of a deceased's estate between or amongst persons beneficially entitled to such an estate in a polygamous family set-up. While the number of children in a particular house is an important factor in the determination of the share to be allocated to each house, it is not the only factor; neither is it the controlling factor. The share each house gets is not contingent upon the number of children in any particular house; there are other considerations which will guide the court's discretion in the distribution of the estate; for instance, the age of the children and their station in life are factors that the court will necessarily take into account.

In the present cause the children are almost evenly distributed in each house; going by the list provided by the petitioner, the first and third houses have eight children each while the second house has seven. Three children are alleged to have died, two in the second house and one in the third house.

Neither of the surviving children is a school going child or is so young that he has to be taken through the path of life; on the contrary, the deceased's survivors are all adults who are settled in life and therefore the question whether some are entitled to a larger share of the estate than others by virtue of age does not arise; their station or status in life does not count. In any case this aspect of factors for consideration did not feature in the parties' evidence. The only consideration that I have to take into account in the distribution of the deceased's estate is that at least one house was given a gift *inter vivos*; this the third house which was given the land parcel **Title No. Laikipia/Ngobit Supuko/Block2/1040** said to be measure 4 acres; a copy of the green card however shows that it measures 0.776 ha which is only equivalent to 1.9 acres and not 4 acres.

Against this background, it would be meet and just, fair and equitable, if the deceased's estate is shared equally amongst the three houses except for the third house which, as noted benefited from a gift *inter vivos*. I would therefore distribute the deceased's estate as follows:-

1. Title No. Mahiga/Kihome/105 measuring approximately 30.7 ha:-

- a. The land measuring **10.518 ha** is hereby allocated to the first house and shall be divided in eight equal shares which shall be registered in the following names respectively:-
 - i. Heron Kariuki
 - ii. Milka Wangechi
 - iii. John Kiburu
 - iv. Barnabas Wanjohi
 - v. Wambui Kariuki
 - vi. Awelia Wanjiru
 - vii. Dorcas Wanjiku
 - viii. Rachael Kariuki

- b. The land measuring **10.518 ha** is hereby allocated to the second house and shall be divided in six equal shares which shall be registered in the following names respectively:-
 - i. Rahab Njeri Kariuki (subject to life interest)
 - ii. Saweria Wangechi

- iii. Lydia Thogori
- iv. Daniel Kamau
- v. Grace Wambui
- vi. Margaret Wangui

c. The land measuring **9.454 ha** is hereby allocated to the third house and shall be divided in eight equal shares which shall be registered in the following names respectively:-

- i. Mary Ndomo Kariuki (subject to life interest)
- ii. Felista Wangechi
- iii. Hannah Wambui
- iv. Mary Thogori
- v. Joseph Muriru
- vi. Regina Njeri
- vii. Beth Wambui
- viii. Charles Ngumo

2. Plot No. 13/Ndunyu Nyeri County Council

The deceased's share in this plot is allocated to the 1st house and shall be registered in the names of the following persons as proprietors in common:-

- i. Heron Kariuki
- ii. Milka Wangechi
- iii. John Kiburu
- iv. Barnabas Wanjohi
- v. Wambui Kariuki
- vi. Awelia Wanjiru
- vii. Dorcas Wanjiku
- viii. Rachael Kariuki

3. Plot No. 31/Ndunyu Nyeri County Council

The deceased's share in this plot is allocated to the 2nd house shall be registered in the names of the following persons as proprietors in common:-

- i. Rahab Njeri Kariuki (subject to life interest)
- ii. Saweria Wangechi
- iii. Lydia Thogori
- iv. Daniel Kamau
- v. Grace Wambui
- vi. Margaret Wangui

4. Plot No. 25/Ndunyu Nyeri County Council

The deceased's share in this plot is allocated to the 3rd house shall be registered in the names of the following person as proprietors in common:

- i. Mary Ndomo Kariuki (subject to life interest)
- ii. Felista Wangechi
- iii. Hannah Wambui
- iv. Mary Thogori
- v. Joseph Muriru
- vi. Regina Njeri
- vii. Beth Wambui
- viii. Charles Ngumo

5. Plot No. 12 Kihome market Nyeri County Council

The deceased's share in this plot is allocated to the three houses and shall be registered in the names of the following persons as proprietors in common in trust for themselves and members of their respective houses:-

- i. Francis Wanjohi Kariuki
- ii. Rahab Njeri Kariuki
- iii. Mary Ndomo Kariuki

6. Shares in Kenya Tea Development Authority

These shares shall be divided equally amongst the three houses and in each of these houses every child or surviving widow shall get an equal number of shares.

7. Shares in Makindu Jumapili Society

These shares shall be divided equally amongst the three houses and in each of these houses every child or surviving widow shall get an equal number shares.

The grant of letters of administration intestate made by this court on 16th April, 1999 shall be confirmed in the forgoing terms; this being a family dispute, parties will bear their own respective costs. It is so ordered.

Signed, dated and delivered in open court this 1st day of April 2016

Ngaah Jairus

JUDGE