



**In re Estate of Peter Kamau Kiarie (Deceased) (Succession Cause
97 of 2014) [2025] KEHC 14688 (KLR) (21 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14688 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
SUCCESSION CAUSE 97 OF 2014**

RK LIMO, J

OCTOBER 21, 2025

IN THE MATTER OF THE ESTATE OF PETER KAMAU KIARIE – DECEASED

BETWEEN

MARGARET WANGARE KIARIE APPLICANT

AND

JOHN KAMAU KIARIE 1ST PROTESTOR

DISHON NTHENJI KIARIE 2ND PROTESTOR

JUDGMENT

1. This cause relates to the estate of the late Peter Kiarie Kamau (deceased) who died on 23rd October 2005 domiciled at Kiboroo, Trans-Nzoia County.
2. The deceased died intestate and was married to 2 wives and left the following dependants;
 - A. 1st House
 - i. 1st wife Mary Wambui Kiarie (deceased)
 - ii. John Kamau Kiarie
 - iii. Margaret Wangare Kiarie
 - iv. Eunice Muthoni Kiarie
 - (B) 2nd House
 - (i) 2nd wife - Florence Muthoni Kiarie (deceased)
 - (ii) John Makomi Kiarie
 - (iii) John Kamau Kiarie



- (iv) Njoki Kiarie
- (v) Dishon Nthenji Kiarie
- (vi) Njuguna Kiarie
- (vii) Nyambura Kiarie

3. The estate of the deceased as listed in the petition herein comprised the following;
 - a. Miteitei Plot No.15 – 2acres
 - b. Miteitei Plot No.118 -5acres
 - c. Miteitei Plot No.133 -4.4acres
 - d. Mukuha Plot No.53 -3.8acres
 - e. Mukuha Plot No.116 -0.25acres
4. John Kamau Kiarie, Margaret Wangare Kiarie, John Kamau Kiarie and Dishon Nthenji Kiarie were appointed administrators of the estate of the deceased herein on 10/9/2021 and Margaret Wangare Kiarie vide summons for revocation of grant dated 15/12/22 applied for confirmation of the grant proposing that the entire estate be registered in her name solely.
5. The proposal met resistance from the other beneficiaries who filed protests through John Kamau Kiarie and Dishon Nthenji Kiarie. The two proposed that the parcels of land at Gitwamba and Mukuha be shared among the children of the 1st house while the parcels at Miteitei be shared by the children of the 2nd house. Their view is that the deceased prior to his death had made his intentions well known via a Will and established the 2 houses where they are currently occupied.
6. This court attempted reconciliation through a court annexed mediation to try and let the beneficiaries agree but they could not agree on who were to benefit from parcel No.53 at Mukuha & Parcel No.133 Miteitei.
7. This court then directed the matter to proceed by way of viva voce evidence.
8. Margaret Wangare (PW1) on her part testified and stated that the estate comprised the following;
 - i. Miteitei Plot No.133 -4.4.acres
 - ii. Miteitei Plot No.15 -2acres
 - iii. Miteitei Plot No.118 -5 acres
 - iv. Mukuha Plot No.53 -3.8 acres
 - v. Mukuha Plot 116- 0.23 acresShe proposed that she should be allotted Plot Nos.53 and 116 at Mukuha. While Parcel No.Miteitei Plot No.133 be given to John Kamau from the 1st house.
9. Eunice Muthoni (PW2) testified and concurred with the proposal by Margaret but added that she was not claiming any share for herself.
10. The protestors on the other hand opposed the above proposal.

Dishon Nthenji Kiarie (DW1), testified that the estate comprised what Margaret had listed but according to him the deceased also had other plots at Gitwamba Plot numbers 242,299 and 214. He



stated that the plots changed hands with Margaret Wangare and John Kamau benefitting. He however could not tender any document to prove the allegations.

11. He stated that the deceased left a written Will and his proposal was that distribution of the estate do go as per the Will of the deceased. He stated that the parcels at Miteitei totaling 11.6 acres should go to the 2nd house while parcels at Mukuha totaling 5.25 acres should go to the 1st house. He faulted the 1st administrator Margaret for the 1st house to get Parcel No.133 at Miteitei measuring 4.4 acres so that she can take the entire parcels at Mukuha.
12. Peter Kiarie Kamau (DW2) a grandson to the deceased and son to John Kamau Kiarie a deceased son from the 1st house testified that he had lived in Mukuha all his life since 1968. He supported Dishon Nthenji's proposal that the parcels of land at Miteitei should go to the 2nd house while the parcels at Mukuha should go to the 1st house. He faulted the proposal by Margaret stating that she wants to push them to parcel No.133 at Miteitei aware that the 2nd house is in occupation. He suggested that Margaret Wangare should go there and claim the parcel if she wished.
13. This court has considered the proposals made by the two sides in this cause. There is no dispute to the fact that the deceased left behind the following dependants;
 - A. 1st House
 - i. John Kamau (now deceased)
 - ii. Margaret Wangare (administrator) and
 - iii. Eunice Muthoni
 - B. 2nd House
 - i. John Makomi
 - ii. John Kamau
 - iii. Dishon Nthenji
 - iv. Njoki Kiarie
 - v. Njuguna Kiarie
 - vi. Nyambura Kiarie
14. The assets comprising the estate are as follows;
 - i. Miteitei Plot No.133 -4.4 acres
 - ii. Miteitei Plot No.15 -2 acres
 - iii. Miteitei Plot No.118 -3 acres
Total 11.4 acres
 - iv. Mukuha Plot No.53 - 3.8 acres
 - v. Mukuha Plot No.116 - 0.23 acres
Total 4.03 acres
15. The protestors' claim that the deceased owned other properties in Gitwamba has not been proved as there is no document availed to establish the claims.



16. It is also undisputed that both wives to the deceased are deceased. This means that the provisions of Section 38 of the [Law of Succession Act](#) applies in so far as the distribution of the estate herein is concerned. The law provides that where a deceased person dies leaving no spouse but children then the estate shall be divided equally among the surviving children subject to the provisions of section 41 of the [Law of Succession Act](#). Section 41 provides that if a beneficiary had benefited from a previous gift handed over to him/her by the deceased during his life time, then the same is taken into account during the distribution of the estate. As I have found out above though the protestors claim that some beneficiaries did benefit from a share gifted to them by the deceased to wit parcels at Gitwamba, there is no evidence tendered to proof the allegations.
17. The estate of the deceased share therefore be divided equally among the children of the deceased. The total acreage of the estate comprising 4.03 acres at Mukuha and 11.4 acres at Miteitei is approximately 15.43 acres. The total number of dependants are 9 as follows;
1. Estate of John Kamau
 2. Margaret Wangare
 3. Eunice Muthoni
 4. John Makomi
 5. John Kamau
 6. Dishon Nthenji
 7. Njuguna Kiarie
 8. Njoki Kiarie
 9. Nyambura Kiarie
18. Eunice Muthoni stated that she is not claiming share in the estate and having renounced her right to inherit any share the number of dependants remaining are 8. When you divide 15.43 acres by 8 dependants it means that each dependant would get approximately 1.93 acres.
19. This court finds that the deceased appeared to have done well in terms of equity settling the 1st house in Mukuha and 2nd house in Miteitei because it is apparent that the shares of children in 1st house and 2nd house are almost equal. I will in the interest of justice and equity direct that the grant issued on 16/1/21 is hereby confirmed and the estate be distributed as follows;
- i. Mukuha Plot No.53
 - ii. Mukuha Plot No.116
Margaret Wangare and the Estate of John Kamau Kiarie.
 - iii. Miteitei Plot No.133
 - iv. Miteitei Plot No.15
 - v. Miteitei Plot No.118
John Makomi, John Kamau, Dishon Nthenji, Njuguna Kiarie, Njoki Kiarie and Nyambura Kiarie in equal shares.



The beneficiaries from the 2nd house will divide the above properties equally taking into consideration where the beneficiaries have developed or occupy. The same applies to the members of the 1st house.

I will not make any order as to costs.

DELIVERED, DATED AND SIGNED AT KITALE THIS 21ST DAY OF OCTOBER , 2025.

HON JUSTICE R.K. LIMO

KITALE HIGH COURT

Judgment delivered in open court

In the presence of

Margaret Wangare Kiarie – Administrator

John Kamau Kiarie – Administrator

Dishon Nthenji Kiarie – Objector

Duke/Chemosop- Court assistants

