



REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
FAMILY DIVISION
SUCCESSION CAUSE NO. 2574 OF 2015
IN THE MATTER OF THE ESTATE OF DAVID MWAURA
KARABA (DECEASED)

RULING

1. The issue pending for determination following the judgment herein on 27th September 2021 is the distribution of the estate. In that judgment the Court determined that the beneficiaries of the estate are -

- i. Wingrace Wanjiku (Widow)
- ii. Angela Esther Wangari Mwaura (Daughter)
- iii. Susan Wanjiru Kinyanjui (Widow)
- iv. Esther Lynda Wangari (Daughter)
- v. Mary Wakari Mwaura (Widow)
- vi. Peter Karaba Mwaura (Son)
- vii. Judy Wanjiru Mwaura (Daughter)
- viii. Caroline Wangari Mwaura (daughter)

In addition, the Court found that the mother of the deceased Esther Wangari Karaba is a dependant and directed that reasonable provision be made for her.

2. The Assets available for distribution are-

- a. Thika Municipality Block 1/1774
- b. Thika Municipality Block 1/1775

- c. Thika Municipality Block 1 /919
 - d. Kamenu Estate House No. 811
 - e. Account No. 0340290917617 Equity Bank Thika
 - f. Equity Bank Account No. 0340190866835
 - g. Account No. 1112254139 KCB Thika
 - h. Account No. 117931072 KCB Bank Thika (joint account operated by administratixes)
 - i. Motor Vehicle Registration No. KBE 224 H
3. Guided by Section 40 of the Law of Succession Act on distribution of a polygamous deceased, the Court directed that the estate be distributed in the ratio of 3:2:2:1 and deferred confirmation of the grant pending the valuation of the Estate.
4. The parties were unable to agree on a valuer and on 1st February 2023 the Court directed that the Government valuer undertake the valuation. The Government Valuer's report gives the following values-
- a. Thika Municipality Block 1/1774- Kshs 32,230,000/=
 - b. Thika Municipality Block 1/ 1775 - Kshs 72,000,000/=
 - c. Thika Municipality Block 1/919- Kshs 32,000,000
5. Pursuant to my ruling of 26th June 2024, the administrators have tendered separate proposals on administration.

Wingrace Wanjiku Wambugu *vide* affidavit sworn on 18th February 2025 proposes as hereunder-

- a. Thika Municipality Block 1/1774-

Wingrace Wanjiku Wambugu

Angela Esther Wangari Mwaura

b. Thika Municipality Block 1/1775-

Esther Wangari
Mary Wakari Gutuba
Peter Karaba Mwaura
Judy Wanjiku Mwaura
Caroline Wangari Mwaura

c. Think Municipality Block 1/919

Susan Wanjiru Kinyanjui
Esther Lynda Wangari

d. House No. 811 Kamenu Estate-

Mary Wakaba Gutuba

e. M/V Reg No. KBE 224 H

Mary Wakaba Gutuba

f. Funds in the Bank accounts to be shared equally among the beneficiaries.

6. In affidavit sworn on 25th June 2025, **Esther Wangari Karaba** proposes that the assets be liquidated and shared equally among the dependants as per the formula of the Court and that she be given 5% shares of the proceeds and the amounts in the bank account of the deceased.

7. **Mary Wakaba Gutuba** has sworn affidavit of 22nd March 2025. She contests the valuation report and has submitted valuations based on independent valuation that she commissioned. She submits that there is an outstanding loan in respect of **Thika Municipality Block 1/1775**. She avers further that **House No. 811 Kamenu Estate** and **M/V Reg. No. KBE 224 H** do not comprise the estate. Her proposal is

that Title No. Thika Municipality Block 1/1775 devolve to her and her two children and the other beneficiaries share out Thika Municipality Block 1/1774 and Block 1/919 in the ratios given by the Court.

8. She further submits that the other administrators be responsible for making provision for Esther Wangari Karaba.
9. On the money in the accounts she submits this should be shared among the beneficiaries in the shares determined by court.

ANALYSIS AND DETERMINATION

10. I have carefully considered the pleadings herein and having considered the relevant law, I find that the only issue for determination is how the estate should be distributed having regard to the valuation report.
11. **Mary Wakari Gutuba** seeks to introduce a valuation report that she independently commissioned. As stated earlier in ruling of 26th January 2024 it is the Court that directed that the Government valuer proceed with the valuation of the estate. In challenging the accuracy of the report, the Co-administrator makes unfounded allegations against the valuer.
12. She urges that the valuation report prepared by the valuer she appointed should guide the Court. I have considered both reports and in my view it is the report of the government valuer that will pass the objectivity test. I therefore find that the values of the property are as set out in the report of the Government valuer.

13. Mary Wakari Gutuba also seeks to unilaterally review the list of the assets that comprise the estate of the deceased. The judgment delivered herein on 27th September 2021 enumerated the assets of the estate of the deceased. That decision has not been overturned.

14. It is common ground that there is an outstanding loan with Kenya Commercial Bank and that it is secured by Thika Municipality Block No. 1/1775.

15. In arriving at what is reasonable provision for **Esther Wangari Karaba**, I am guided by the provisions of Sections 26, 27 and 28 of the Law of Succession Act.

16. Section 26 provides-

Provisions for dependants not adequately provided for by will or on intestacy

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.

17. Section 27 provides-

Discretion of court in making order

In making provision for a dependant the court shall have complete discretion to order a specific share of

the estate to be given to the dependant, or to make such other provision for him by way of periodical payments or a lump sum, and to impose such conditions, as it thinks fit.

18. Section 28 provides-

Circumstances to be taken into account by court in making order

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 defendant;**
- (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 reasons for not making provision for the dependant.**

19. In her affidavit sworn on 25th June 2025, she avers that she is aged 81 and requires support for her subsistence and to cover her medical needs. She proposes that the assets be liquidated and she be apportioned 5% of the proceeds. She does not however quantify her medical and subsistence needs

and I am therefore unable to gauge the reasonableness of her proposal.

20. I consider a monthly payment of Kshs 20000 to be reasonable. Given life expectancy I think provision can be made for the next 15 years. This works out to a lump sum of Kshs 3,600,000. (Kshs 3 Million Six Hundred thousand) reasonable. This amount shall be paid to her within 12 months from the date hereof from the rental income derived from the 3 properties, with each property contributing Kshs 1,200,000 (Kenya Shillings One Million Two Hundred Thousand) over the 12-month period, the Co Administrators, Wingrace Wanjiku Wambugu, Mary Wakari Gutuba and Susan Wanjiru Kinyanjui will be responsible for ensuring the payment is made.

21. I have seen the various proposals and there is a general consensus that Mary Wakari Gutuba be allocated Kamenu Estate House No. 811 along with motor vehicle **Reg. No. KBE 224 H.**

22. This leaves the money held in bank accounts and the following properties-

- a. Thika Municipality Block 1/1774 valued at Kshs 32,230,000/=

- b. Thika Municipality Block 1/ 1775 Valued at 72,000,000/=
- c. Thika Municipality Block 1/919 Valued at Kshs 32,000,000

23. The money in the accounts will be shared equally between the beneficiaries, namely; Wingrace Wanjiku Wambugu, Angela Esther Wangari Mwaura, Mary Wangari Gutuba, Peter Karaba Mwaura, Judy Wanjiku Mwaura, Caroline Wangari Mwaura, Susan Wanjiru Kinyanjui and Esther Lynda Wangari.

24. The properties enumerated under para 22 shall be distributed as follows-

a. Thika Municipality Block 1/1774- Kshs 32,230,000/=

- i) Wingrace Wanjiku Wambugu
- ii) Angela Esther Wangari Mwaura

b. Thika Municipality Block 1/ 1775 - Kshs 72,000,000/=

- i. Mary Wangari Gutuba
- ii. Peter Karaba Mwaura
- iii. Judy Wanjiku Mwaura
- iv. Caroline Wangari Mwaura

c. Thika Municipality Block 1/919- Kshs 32,000,000

- i) Susan Wanjiru Kinyanjui
- ii) Esther Lynda Wangari

25. The administrators will finalise transmission of the estate within 9 months. Mention on 9th July 2026 to confirm compliance.

26. As the parties are family members, there shall be no order as to costs.

27. Parties granted leave to appeal within 30 days.

SIGNED, DATED and DELIVERED VIRTUALLY at NAIROBI
this **16TH** day of **OCTOBER, 2025.**

P. M. NYAUNDI
JUDGE

In the presence of:

Opole holding brief for Mr. Munge for Wingrace Wanjiku
Wambugu Administrator

Ms. Sharamo holding brief for Mr. Gikonyo for Administrators
Fardosa Court Assistant