



**In re Estate of the Late Reuben Njoroge Njenga (Deceased) (Succession Cause 563 of 2011) [2025] KEHC 14143 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14143 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE 563 OF 2011  
SM MOHOCHI, J  
OCTOBER 9, 2025  
IN THE MATTER OF THE ESTATE OF THE LATE  
REUBEN NJOROGE NJENGA (DECEASED).**

**BETWEEN**

**PHYILLIS WAIRIMU NJOROGE ..... APPLICANT**

**AND**

**JOB MWANGI NJOROGE ..... PROTESTOR**

**RULING**

1. On the 9<sup>th</sup> May 2025 this Court declared as valid the deceased's last will and testament dated 22<sup>nd</sup> March 2007 and equally found the deceased to have failed to provide 1<sup>st</sup> Administrator (widow) and daughters and this Court urged the 2<sup>nd</sup> Administrator/Protestor (son of the deceased) and the Applicant to discuss and agree on reasonable provision of which parties unsuccessfully attempted and subsequently on the 29<sup>th</sup> July 2025, the Court was invited by the parties to consider the 1<sup>st</sup> Administrator's proposed mode filed on the 15<sup>th</sup> July 2025 and the 2<sup>nd</sup> Administrators proposed mode as is contained in the Affidavit dated 10<sup>th</sup> July 2025 and render ruling.
2. It is important to observe from the onset that, this is a testate succession and the last wish and testament of the deceased the deceased's last will and testament dated 22<sup>nd</sup> March 2007 and that the exercise of reasonable provision is not intended to alter in any major way the succession.
3. This Court has limited jurisdiction under Section 26 of the *Law of Succession Act*, to disturb testamentary freedom where the Testator fails to make any reasonable provision to the dependents.
4. Without describing the detail of the proposed mode by the Applicant, I sadly note that it proposes all beneficiaries to share with the Protestor the entire estate as if this is an intestate succession.



5. On the other hand the Protestor in his sworn Affidavit dated 10<sup>th</sup> July 2025 indicates his inability to make proposal for reasonable provision as he had been forewarned by the deceased never to digress from his wishes least a curse is visited upon him so he leaves it to the Court as a law abiding citizen.
6. The discretion of the Court in an application for reasonable provision is absolute and unfettered, but must be exercised judicially. The factors to be considered by the Court in the exercise of its discretion are stipulated in Section 28 provides 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 reasons for not making provision for the dependant.
7. The main reason the Court directed parties to explore and agree on reasonable provision was because the testator in his will made a token bequeath to all of his three daughters of hardly more than kshs 90,000/- in the form of 10% of the shares and stock portfolio in this estate.
8. It should be noted that the failings by the deceased revolved about failing to provide reasonable provision for his adult daughters hinged on dependency and the moral obligation on his part.
9. The deceased never offered reason for his token bequeath and as such the Court would rationalize and conclude there was no bad blood between him and his daughters and there was no rational why Elizabeth Wanja was bequeathed shares in National Bank amounting to Kshs. 20,030, Nancy Muthoni bequeathed Kengen Shares amounting to Kshs. 15,612.50 and Eveready Shares amounting to Kshs. 380 and Jane Njeri Reuben was bequeathed Standard Chartered Bank Kshs 45,000 while the protestor retained the lion share of Kshs. 798,370 worth of shares.
10. While the moral authority argument by the applicant was not laid out, the Court is of the view that in the absence of reason, the deceased had a moral obligation to make reasonable provision and in all fairness this Court is of the view that the daughters of the deceased Elizabeth Wanja, Nancy Muthoni and Jane Njeri Reuben are entitled to the entire portfolio of shares and stocks forming part of the deceased estate.
11. The deceased wife was bequeathed a life interest in Nyandarua/Mawingu/234 approximately 3HA as a spouse and deceased companion there was dependency and as such the deceased had a moral obligation to make reasonable provision.
12. I order and direct the Executor/Protestor to forthwith liquidates and sells all the shares and stocks of the deceased.
13. Phyllis Wairimu Njoroge, Elizabeth Wanja Njoroge, Nancy Muthoni Njoroge and Jane Njeri Reuben shall equally share All proceeds from the sale of the following;



- a. Barclays Bank Ltd-20,180 Shares
  - b. Eveready East Africa Ltd-200 Shares
  - c. Kengen Ltd-1,249 Shares
  - d. Kenya Airways-3,000 Shares
  - e. National Bank of Kenya- 1,074 Shares
  - f. Scangroup Ltd-480 Shares
  - g. Standard Chartered Bank Ltd-165 Shares
  - h. Safaricom Ltd- 76,000 Shares
14. Any Party aggrieved by this Order shall move the Court of Appeal appropriately within 30 days.
15. A mention date shall be assigned for progress reporting on administration and conclusion

It is ordered.

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS 9<sup>TH</sup> DAY OF OCTOBER 2025**

**MOHOCHI S. M.**

**JUDGE**

