



**In re Estate of Ghalib Nasir Nasib (Deceased) (Petition
E030 of 2022) [2025] KEKC 10 (KLR) (18 February 2025) (Ruling)**

Neutral citation: [2025] KEKC 10 (KLR)

**REPUBLIC OF KENYA
IN THE KADHIS COURT AT MOMBASA
PETITION E030 OF 2022
IA HUSSEIN, PK
FEBRUARY 18, 2025
IN THE MATTER OF THE ESTATE OF GHALIB NASIR NASIB (DECEASED)**

BETWEEN

WAHIDA FARAJALLA SAID PETITIONER

AND

ABDULKARIM NASIR NASIB 1ST RESPONDENT

HUDAA NASSER NASIB 2ND RESPONDENT

RULING

1. This matter comes before the court through two applications: the Petitioner's Notice of Motion dated 11th September 2024 and the 1st Respondent's Notice of Motion dated 9th October 2024. Both applications seek various orders concerning the estate of the late Ghalib Nasir Nasib, who passed away on 10th October 2020.
2. The Petitioner seeks valuation of the estate, shared costs of valuation, and orders for deposit of rent proceeds. The 1st Respondent's application seeks similar orders regarding valuation whilst additionally requesting the 2nd Respondent to vacate the ground floor and for all parties to provide accounts of estate proceeds. The 2nd Respondent, despite service, has not responded to either application.
3. By ruling dated 29th August 2024, this court determined the shares of inheritance as follows: Widow (Petitioner) 25%, Brother (1st Respondent) 37.5%, and each sister 18.75%. The ruling also directed that the ground floor of the property on Plot Number XVI/1230 belongs to all family members and is not for exclusive use, with parties to agree on modalities within 30 days.
4. The main issues for determination are: whether and how to conduct estate valuation; whether to order accounting and deposit of rent proceeds; what directions to issue regarding the ground floor; and whether to grant costs.



5. On the issue of valuation, both parties seek this relief with shared costs. This is not contested and is necessary for proper distribution. It's a trite law that a valuation is a prerequisite for fair distribution of estate assets among Muslim heirs. The principle of shared costs among beneficiaries must be based on the proportion to heirs' inheritance share.
6. Regarding rent proceeds and accounting, there are conflicting claims. The Petitioner states she collected rent only during her 9-month iddah period, while the 1st Respondent alleges, she collected Ksh.1.5 million between May 2018 and July 2021. The 1st Respondent acknowledges collecting rent from August 2021 to date, claiming to hold it in trust. However, in the absence of letters of administration, no beneficiary has the authority to collect and retain estate proceeds without accountability to the other heirs.
7. Regarding the Petitioner's plea for interim orders compelling the 1st Respondent to deposit rent proceeds in court pending hearing and determination, this plea has been overtaken by events and thus cannot be granted. However, this court cannot overlook potential dissipation of estate assets. It is an established legal principle that any person collecting rent or managing estate property without being appointed as administrator or having express court orders is an intermeddler. As held in *In re Estate of SLBT* (Deceased) [2021] KEHC 5901 (KLR), such intermeddling may attract serious legal consequences unless rectified. The affected party must either regularize their position through proper appointment or face legal sanctions. This court reminds all parties that litigation is not perpetual - it must come to an end. People's lives should not and ought not to revolve around endless court proceedings. As emphasized in *Njau & another v Achola* [2025] KEHC 17068 (KLR), there is a fundamental principle that litigation must conclude at a specific point, irrespective of the parties' opinions on the rendered decision.
8. Regarding the ground floor dispute, it is important to note that the Petitioner's status must be properly considered under Islamic law. The deceased passed away on 10/10/2020, and the Petitioner observed her iddah period until 20/02/2021. While she retains her 25% share of the first floor as a widow, her claim to occupy the ground floor requires careful examination. The previous ruling's Order 12(a) dated 29/08/2024 stated that the ground floor belongs to the family for their occupation as per the agreement. However, the Petitioner's relationship to the family was not through consanguinity but through marriage.
9. Under Islamic law, such a relationship terminates either through divorce or death, and the concept of a spouse's life interest is foreign to Islamic juridical principles. The Petitioner's rights as a widow are limited to her determined share of inheritance, and do not extend to continued occupation of the family property beyond her specific share. This principle was affirmed in the Qur'an Chapter 4, verses 12, that a widow's rights in Islamic law are strictly limited to her inheritance share and do not include life interest or continued occupation of family property beyond the 'iddah period.
10. Having carefully considered the pleadings, submissions, and applicable law, I make the following orders:
 - a. A joint valuation of the estate shall be conducted within 30 days. The costs of valuation shall be shared among the heirs in proportion to their inheritance shares, namely: the Petitioner (widow) 25%, the 1st Respondent (brother) 37.5%, and each sister 18.75%. This apportionment reflects the principle that costs should be borne in proportion to the benefit received. Parties shall propose three valuers each within 14 days, failing which the court shall appoint one.



- b. All parties who have collected rent shall file sworn accounts within 30 days, supported by documentation. The Petitioner shall account for May 2018 to July 2021, and the 1st Respondent from August 2021 to date. The court notes that failure to comply may result in punitive measures against the non-compliance.
- c. Regarding the ground floor, the Petitioner shall vacate the premises by 28th February 2025, as her rights are limited to her 25% share of the first floor.
- d. Each party shall bear their own costs.

The matter shall be mentioned on 11/03/25 at 9:00 AM to confirm compliance.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 18TH DAY OF FEBRUARY 2025

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AJ ISHAQ HUSSEIN

DEPUTY REGISTRAR/PRINCIPAL KADHI

