



REPUBLIC OF KENYA



**In re Estate of Samuel Gatheru Njuguna (Deceased) (Succession Cause 72 of 2014) [2025] KEHC 14763 (KLR) (Family) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14763 (KLR)

**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**FAMILY**

**SUCCESSION CAUSE 72 OF 2014**

**CJ KENDAGOR, J**

**OCTOBER 9, 2025**

**IN THE MATTER OF THE ESTATE OF SAMUEL GATHERU NJUGUNA – DECEASED**

**RULING**

1. The deceased herein, Samuel Gatheru Njuguna, died intestate on 21<sup>st</sup> October 1988. Susan Wangui Thumbi and Wanjiru Gatheru Njuguna filed for Letters of Administration intestate as his widows and were appointed as administrators. An application for Confirmation of the Grant was filed in 2015.
2. Subsequently, the beneficiaries in the course of the proceedings nominated a fresh set of administrators that saw the appointment of new administrators - Wanjiru Gatheru Njuguna and James Njuguna Gatheru (from the 1<sup>st</sup> house) and Nancy Njeri Gatheru and Stephen Muchiri Gatheru (from the 2<sup>nd</sup> house).
3. Thereafter, the parties became involved in a protracted back-and-forth over the Confirmation of the Grant and failed to reach a consensus, which ultimately led to the present determination on the distribution of the estate.
4. The parties agree that the following properties form part of the estate:
  - i. Chini ya Mnazi, plot No. 6 Kitengela;
  - ii. K.M.C. undeveloped plot L.R. No.337/22;
  - iii. Makadara Shop plot No. 16 Athi River, T-Ship;
  - iv. Kitengela plot No.51 (Half) – 25 x 100ft;
  - v. Kiambu Kawaida plot;
  - vi. Limuruti shamba (Half) 2 ½ hectares;
  - vii. B.A.T. shares;



- viii. Kiandas Limited Shares (2.5);
  - ix. Kitengela plot No.3;
  - x. Sofia plot No.71;
  - xi. Kitengela plot No.51 (Half) 25 x 100ft);
  - xii. Kitale shamba, Kiminini/Kapkoi Sisal Block 2 Wamuini 'B'/525;
  - xiii. Limuruti shamba (Half) 2 ½ hectares;
  - xiv. K.B.L. & Brooke Bond shares;
  - xv. Kiandas Limited shares (2.5).
5. Out of the 15 properties, the parties agree on 12 of the properties, and the contested properties are as follows;
- i. KMC Plot No. LR 337/22 – undeveloped Plot
  - ii. Makadara Shop Plot No. 16
  - iii. Kitengela Plot No. 51
6. The issue for determination is how the three contested properties that are part of the deceased's estate should be distributed.
7. The two widows agree on the mode of distribution. This mode is the same mode of distribution consented to by the beneficiaries from the 2<sup>nd</sup> house. The contested properties are those allocated to the 1<sup>st</sup> house in the proposed mode of distribution. There is no contention regarding the distribution of the properties allocated to the 2<sup>nd</sup> house.
8. Three beneficiaries from the 1<sup>st</sup> house expressed a consensus that the earlier mode that their advocate shared did not reflect their position. Stanley Muchiri, who stated the 1<sup>st</sup> house's beneficiaries' position, maintained that their mother, Susan Wangui Thumbi, had already benefited from the estate and is therefore not entitled to any other share of the contested properties.
9. The divergent proposals on the three contested properties are reflected in the table below;



Property	1 <sup>st</sup> house's protestors proposal	1 <sup>st</sup> widow Susan's proposal (endorsed by the 2 <sup>nd</sup> house)
1. KMC Plot No. LR 337/22 – undeveloped Plot	It be shared by all beneficiaries of the 1 <sup>st</sup> house; Susan Wangui Thumbi Josphat Njuguna Gatheru Nancy Njeri Gatheru Simon Muchai Gatheru Stephen Muchiri Gatheru	It be shared by Leah Wairimu Gatheru's estate/ her four children (Susan's Grandchildren); Samuel Gatheru Wairimu Stephen Muchiri Gatheru, Faith Njeri Wairimu Susan Wangui Wairimu
2. Makadara Shop Plot No. 16 N.B- the proposals made during the examination before court tallies	Josphat Njuguna Gatheru Nancy Njeri Gatheru Simon Muchai Gatheru Stephen Muchiri Gatheru (1 <sup>st</sup> widow excluded)	Josphat Njuguna Gatheru Nancy Njeri Gatheru Simon Muchai Gatheru Stephen Muchiri Gatheru (1 <sup>st</sup> widow excluded)
3. Kitengela Plot No. 51	That it goes to the 1 <sup>st</sup> house absolutely - Josphat Njuguna Gatheru Nancy Njeri Gatheru Simon Muchai Gatheru Stephen Muchiri Gatheru	That it be shared between the two widows in equal shares.

10. As the proposals before the Court concerning the Makadara Plot indicate that it should go to the children of the 1<sup>st</sup> house to the exclusion of the widow, then the Court shall not alter this arrangement.
11. On the KMC undeveloped plot, I agree with the suggestion that it should go to the late Leah, who is deceased. The record shows that no assets were allocated to her estate from the 1<sup>st</sup> house's proposals. According to the pleadings, Leah died in 1998, and after her death, her children were raised by Susan, the 1<sup>st</sup> widow. Leah's children have expressed their wish to inherit their late mother's portion of the estate, and they are entitled to inherit her share of the deceased's estate under Section 38 of the [Law of Succession Act](#). It is highly selfish for her siblings to exclude her children from the inheritance solely based on their discontent with their biological mother - Susan, who is the grandmother to Leah's children.
12. In re Estate of Micai M'Riungu (Deceased) (Succession Cause 78 of 2014) [2025] KEHC 1827 (KLR), the Court, faced with a similar question on inheritance by grandchildren, held as follows;
  21. Under Kenyan law, grandchildren can inherit directly from their grandparents' estate in specific circumstances, particularly when their own parent (the child of the deceased grandparent) is deceased. In such cases, the grandchildren step into the shoes of their deceased parent and are entitled to the share that their parent would have received.



22. The *Law of Succession Act* (Cap. 160) contemplates situations where a child of the deceased has predeceased them. In such scenarios, the Act allows for the deceased child's offspring (the grandchildren) to inherit their parent's share.
23. There are numerous cases that underscore the principle that grandchildren inherit directly from their grandparents' estate only if their own parents, who would have been the direct heirs, are deceased. (See *In re Estate of Veronica Njoki Wakagoto (Deceased)* [2013] eKLR, *In re Estate of John Musambayi Katumanga (Deceased)* [2014] eKLR, and *In re Estate of M'Ngarithi M'Miriti (Deceased)* [2017] eKLR).
24. From the foregoing, it follows that the applicants, being direct grandchildren of the deceased, are entitled to a share of the estate under Section 38 of the *Law of Succession Act*. The failure to include them violates their right to inheritance.”
13. Regarding the Kitengela Plot No. 51, the 1<sup>st</sup> widow, through counsel, made a case that the two widows have no other source of income and that they have jointly developed the property with the intention that they earn some income to sustain themselves. The children from the 1<sup>st</sup> house maintained before the Court that the same should go to the 1<sup>st</sup> house absolutely. Notably, from the consent dated 18<sup>th</sup> March, 2024, the 1<sup>st</sup> house's beneficiaries consented to a half share of that property.
14. I have assessed the parties' position regarding this property. The dispute arising from the 1<sup>st</sup> house on this property is that the children assert their mother has another source of income. However, from her perspective, she asserted through counsel that she has no other source of income. Her proposal indicates that the funds received from the sale of the referenced property, Kiambu Plot, were used to cover land rates for one of the estate's properties.
15. The distribution of the estate must acknowledge the widows' rights while simultaneously safeguarding the interests of the deceased's children. It is imperative that each party receives fair consideration.
16. Upon reviewing the consents signed by the children of the 1<sup>st</sup> house and the examination before the Court, it is evident that their proposals could potentially leave their mother in a state of desolation. Approving these proposals would be discriminatory towards the 1<sup>st</sup> widow.
17. I am inclined to make a determination in favour of the proposal that the property identified as Plot No. 51 in Kitengela be divided equally and exclusively between the two widows, ensuring that both receive their equitable share of their late husband's estate in a manner that recognizes their contributions.
18. As there is no dispute over the distribution of the remaining properties, they shall be shared in accordance with the proposals that are agreed upon.
19. For the avoidance of doubt, the estate is distributed in terms of the mode of distribution dated 8<sup>th</sup> April, 2024. A Certificate of Confirmation of grant shall issue accordingly.
20. It is so ordered.

**DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 9<sup>TH</sup> DAY OF OCTOBER, 2025.**

.....

**C. KENDAGOR**

**JUDGE**

In the presence of:



Court Assistant: Beryl

Ms. Nderitu, Advocate holding brief for Mr. Rono for the 2<sup>nd</sup> house

No attendance for 1<sup>st</sup> house

