



In re Estate of Samuel Kamiri Kungu alias Samuel Kamiri (Deceased) (Probate & Administration E037 of 2024) [2025] KEHC 16293 (KLR) (Family) (12 November 2025) (Ruling)

Neutral citation: [2025] KEHC 16293 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
FAMILY
PROBATE & ADMINISTRATION E037 OF 2024
KW KIARIE, J
NOVEMBER 12, 2025
IN THE MATTER OF THE ESTATE OF: SAMUEL
KAMIRI KUNGU ALIAS SAMUEL KAMIRI DECEASED**

BETWEEN

JAMES WAINAINA KAMIRI APPLICANT

AND

RICHARD RUIGU KAMIRI RESPONDENT

AND

MARY NJERI NDUATI PROTESTOR

RICHARD RUIGU KAMIRI PROTESTOR

RULING

1. Mary Njeri Nduati and Richard Ruigu Kamiri, the applicants herein, moved the court by a protest against confirmation of the grant dated 20th July, 2017, under Rule 41(1), (2) & (3) of Probate and Administration Rules. In his protest, Richard Ruigu Kamiri raised the following grounds:
 - a. Three houses truly survived the deceased, but he never proposed the mode of distribution of his estate as preferred by the petitioner herein.
 - b. During his lifetime, the deceased owned the following properties: Nyandarua/Ol Kalou South /101 measuring approximately 65 acres. Plot No. 3777/279/24, Ol-Kalou Township (developed with rental units) Plot No. Y 31-Ol-kalou Township Plot No. 5-Ol Kalou Town
 - c. It was an open secret within the entire family of the deceased that at the time of acquiring title No. Nyandarua/Ol-Kalou South/101, my elder brother and the oldest child of the



deceased Bernard Ndungu, was registered as the proprietor of the said parcel of land, with the understanding that he was holding it as trustee for the entire family.

- d. The foregoing notwithstanding, our elder brother Bernard Ndungu arranged for a meeting to have an amicable mutual agreement on a proposal of distributing the deceased estate, with the hope that the same would be amenable to the deceased and, as a basis of kick-starting the process, valued the deceased estate as follows: Nyandarua/Ol-Kalou South /101 at Kshs. 6,500,000/=Plot No. 3777/279/24, Ol-Kalou Township at Kshs. 800,000/=Plot No. Y 31-Ol-kalou Township at Kshs. 100,000/=Plot No. 5-Ol Kalou Town at Kshs. 100,000
 - e. Plot No. Y31 Olkalou was bequeathed to me during the lifetime of the deceased; it is not free property.
 - f. Apart from the property in Nyandarua/Olkalou South /101 and Plot No. 3777/279/24, Olkalou are the only free property farming part of the deceased estate, and since Nyandarua/Olkalou South/101 had already been shared out during the deceased's lifetime, it would only be fair and just that Plot No. 3777/279/24-Ol Kalou be shared equally among all the beneficiaries of the deceased.
 - g. Form the foregoing trial of detained facts pertaining to the deceased estate, it would only be just that the remaining properties of the deceased estate, to wit, Land Reference Number 3777/279/24 Ol Kalou Township and Plot No. 3777/279/24- Olkalou, be shared equally among the three houses without exclusion of any of the deceased dependents.
2. On her part, Mary Njeri Nduati raised the following grounds:
- a. Upon being notified of the existence of these proceedings, I realized that the property known as Land Reference Number 3777/279/24 Ol Kalou Township was rightly included in the deceased's list of assets.
 - b. The estate of the deceased herein consists of 3 households, with the 1st house consisting of 7 units, the 2nd consisting of 8 units and the 3rd house consisting of 6 units.
 - c. The Petitioner herein is a child of the 2nd household, while the protestors herein are children of the 1st household.
 - d. However, the 2nd and 3rd households have taken over the exclusive management of the rental premises erected on land reference number 3777/279/24 Ol Kalou Township and have been collecting and utilizing the rent thereof unilaterally to the exclusion and extreme prejudice of the 1st house, myself included, as beneficiaries of the estate herein.
 - e. The rent revenue collected adds up to about Kshs. 50,000/= or more a month
 - f. The petitioner/respondent is intent on denying me and the other beneficiaries from the 1st house their entitlement from the estate of the deceased herein by totally excluding us from the proceeds of the rental income collected from Land Reference number 3777/279/24 Ol Kalou Township.
 - g. The intentions of the respondent herein are suspect, and owing to the fact set out herein above, the respondent, one James Wainaina Kamiri, will not serve the ends of justice by being made the sole administrator in light of the blatant non-disclosure of material facts.
3. The respondent in the application for confirmation of the grant made proposals for distribution as follows:



- a. Land Reference number 3777/279/24 Ol Kalou Township to be registered in the names of Lilian Wanjiku Ndumia and Ann Wambui Kamiri in trust for the 2nd and 3rd households.
 - b. Plot No. Y 31-Ol-kalou Township to be registered in the names of Bernard Ndungu Gachwe in trust for himself and the first household of the deceased.
 - c. Plot No. 5-Ol Kalou Town (also known as land title No. Olkalou Township Block 2/163) to be registered in the names of James Wainaina Kamiri and Margaret Wanjiru Kamiri for themselves and in trust for the 2nd and 3rd households.
4. The petitioner and the protestors agree concerning the distribution of Nyandarua/Ol-Kalou South /101. It will not, therefore, be addressed in this ruling. The distribution of Land Reference Number 3777/279/24, Ol Kalou Township, Plot No. Y 31-Ol-kalou Township and Plot No. 5-Ol Kalou Town (also known as land title No. Olkalou Township Block 2/163) is the one that was contested.
 5. Both protestors have proposed that Land Reference number 3777/279/24 Ol Kalou Township ought to be shared equally by all the beneficiaries from the three households. The administrator had proposed that the property be registered in the names of Lilian Wanjiku Ndumia and Ann Wambui Kamiri in trust for the 2nd and 3rd households.
 6. James Wainaina Kamiri, the protestor, justified giving this property to the second and third households based on the arrangement their father left before his death. Although he testified to a record made in the presence of their father, the deceased did not sign it. The petitioner, aware of this fact, filed an intestate succession cause.
 7. In his protest, Richard Ruigu Kamiri stated that Plot No. Y 31-Ol-kalou Township was one of the properties left by their deceased father intestate. However, he later claimed that this property had been bequeathed to him during their father's lifetime, which is contradictory.
 8. At a glance, I find the distribution of the estate of the deceased not favouring the first household. Where no convincing explanation has been proffered, I am compelled to disallow the proposal by the administrator.
 9. The deceased was polygamous. In the absence of a consensus of the beneficiaries in the distribution of the property, section 40 (1) of the *Law of Succession Act* applies. This is what it provides:

Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.
 10. From the foregoing, it is ordered that the administrator and the family of the deceased hold a sitting and distribute the estate in accordance with section 40 (1) of the *Law of Succession Act*. They have 60 days to file the agreed-upon proposal. This matter will be mentioned on January 20th 2026, to check on progress.
 11. Each party will meet its own costs.

DELIVERED AND SIGNED AT NYANDARUA, THIS 12TH DAY OF NOVEMBER, 2025

KIARIE WAWERU KIARIE



JUDGE

