



**In re Estate of Hosea Karanja Karari (Deceased) (Succession Cause 701 of 2015) [2025] KEHC 16193 (KLR) (10 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16193 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
SUCCESSION CAUSE 701 OF 2015  
SM MOHOCHI, J  
NOVEMBER 10, 2025  
IN THE MATTER OF THE ESTATE OF HOSEA KARANJA KARARI (DECEASED)**

**BETWEEN**

**MARY WAMBUI (GATUATHI) ..... OBJECTOR**

**AND**

**GEORGE GICHURU KARANJA ..... 1<sup>ST</sup> APPLICANT**

**ESTHER NYANDIRI KARANJA ..... 2<sup>ND</sup> APPLICANT**

**IAN KARANJA ..... 3<sup>RD</sup> APPLICANT**

**AND**

**FELIX NG'ANG'A KARANJA ..... EXECUTOR**

**RULING**

1. On the 30<sup>th</sup> April 2024 I delivered a partial ruling of the Application dated 31<sup>st</sup> January, 2023 where the court held that it would not be appropriate at that juncture for the court to grant or refuse to grant the present application in terms stated in prayers (2) and (4) and (7) since first and foremost the Respondent/Executor is still the executor of the estate and that has not changed. He is still clothed with the Responsibility of management of the affairs of the Estate until otherwise and until an account of all the proceeds for the period since the demise of the deceased till date respecting property known L.R. No. 5/113; Hoska Plaza, Nakuru Town are rendered to the court.
2. This Court invoked its inherent discretion and ordered as follows;
  - a. The Respondent/Executor Shall compute, All the outstanding arrears and remit any and all outstanding annual arrears due and owed to each or any beneficiary, up to 30th January 2024, within thirty (30) days from today.



- b. The Respondent/Executor Shall open a Trust bank account in the Name of Natasha Njoki Karanja (minor) with a reputable bank and deposit all outstanding arrears up to 30th January 2024, within thirty (30) days from today.
  - c. The Respondent/Executor shall open an Estate Account with a reputable bank and all the rental income generated from property known as L.R. No. 5/113; Hoska Plaza, Nakuru Town and estate affairs shall be handled from that account.
  - d. The Respondent/Executor is hereby directed and Ordered, to prepare and place on record herein, an accurate account for the rental income/proceeds collected from property known as L.R. No. 5/113; Hoska Plaza, Nakuru Town from the date of the demise of the deceased, up to 30th January 2024, on how and when rental income/proceeds were collected, utilized, spent and/or preserved, with sixty (60) days from today.
  - e. Failure to comply with and/or default of any, of the orders above in a), b), c), and d) above by the Respondent/Executor, shall give rise to possibility of annulment and/or revocation of the grant of letters of administration with a written will and other consequential orders.
  - f. Mention for compliance after thirty (30) days.
  - g. This being a family matter, there will be no orders as to costs.
3. The reliefs reserved now subject of this ruling were as follows;
2. That this Honourable Court be pleased to cite Felix Ng'ang'a Karanja for contempt for defiance of the orders issued on 4th September, 2019 and 2nd October, 2019.
  4. That this Honourable Court be pleased to deny the Executor/Respondent audience until full compliance with the orders issued on 4<sup>th</sup> September, 2019 and October, 2019.
  7. That this Court be pleased to order that the rental income generated from Property known as L.R. Number 5/113; Hoska Plaza, Nakuru Town be collected by a reputable Estate Management Company and be deposited in account number 1310020426, Account name: Esther and George, Bank: Kenya Commercial Bank Limited, Nakuru Branch and the Executor/ Respondent, Nancy Wanjiru Karanja and Mary Wambui be included as mandatory signatories to the account.
4. It should be recalled that the Deceased left a written in the Will made on 22<sup>nd</sup> august, 2015 as read together with Certificate of Confirmation of a Grant of Probate made on 2<sup>nd</sup> October, 2019, where he bequeathed his entire estate to the Executor and created therein a testamentary trust as follows;

I authorise my Trustee to make payment to my Beneficia listed herein, on the following mode of payment: -

- a) Beneficiaries Dependant List
  - I) Mary Wambui - Wife
  - (ii) George Gichuru Karanja - Son
  - (iii) Nancy Wanjiru Karanja - Daughter
  - (iv) Felix Nganga Karanja - Son
  - (v) Esther Nyandiri Karanja - Daughter



- B) Grandchildren
- (i) Martin Karanja Karari - Male
  - Ii) Ian Karanja - Male
  - (ii) Elise Njoki Karanja - Female
  - (iii) Natasha Njoki Karanja – Female
5. I authorise my Trustee to maintain my existing Account with The Barclays Bank of Kenya at Nakuru "the Bank" to accumulate all the income received from the investments I have made amounting to approximately Kshs 350,000.00 per month and to disburse a portion of that income as follows?
- a. To my wife, Mary Wambui Kshs.200,00.00 after every 6 months to a grand total of Kshs 400,000.00 per annum until her demise, subject to paragraph eight (18) hereinafter mentioned and stated.
  - b. To my son, George Gichuru Karanja Kshs. 100,000.00 after every 6 months to a grand total of Kshs.200,000.00 per annum and on his demise to his children and/or his dependants.
  - c. To my daughter, Nancy Wanjiru Karanja -Kshs. 100,000.00 after every 6 months to a grand total of Kshs.200,000.00 per annum and on her demise to her dependants.
  - d. To my son, Felix Nganga Karanja Kshs. 100,000.00 after every six 6 months to grand total of Kshs. 200,000.00 and on his demise to his dependants.
  - e. To my daughter, Esther Nyandiri Karanja -Kshs.100,000.00 after every 6 months to a grand total of Kshs.200,000.00 per annum and on her demise to her children and/or dependants.
  - f. To my Grandson, Martin Karanja Karari Kshs.50,000.00 after every 6 months to a grand total of Kshs.100,000.00 per annum and on his demise to his children and/or dependants.
  - g. To my Granddaughter, Elsie Njoki Karari Kshs.50,000.00 after every 6 months to a grand total of Kshs100,000.00 per annum and on her demise to her children and/or dependants.
  - h. To my Grandson, Ian Karanja -Kshs.50,000.00 after every 6 months to a grand total of Kshs. 100,000.00 per annum and on his demise to his dependants.
  - i. To my granddaughter, Natasha Njoki Karanja Kshs.50,000.00 after every 6 months to a grand total of Kshs.100,000.00 per annum and on her demise to her dependants.
  - j. This amount shall be deposited in an account by my Trustee in her name, until she attains the age of 21 years.



5. It was the deceased last wish that, none of his “physical assets were to be sold and as is explicit in his will, the testamentary trust was intended to ringfence his legacy from waste. Any suggestions to sell any assets destroys the very foundation of the will.
6. Since January 2024 the Executor has complied with all the all orders save for full compliance with payments to beneficiaries whereby the executor has for the last two years 2024 and 2025 failed and or refused to pay to the Objector /Applicant and widow of the deceased.
7. The Objector /Applicants currently owed kshs 1,059, 500/- in arrears.
8. This court had afforded the Executor with a compelling order as inopportunity to purge the contempt which opportunity was squandered.
9. Parties were directed to file written submissions which the Objector/Applicant, complied.

### **Applicants Case**

10. The Objector/Applicant refined two issues for the courts consideration as follows;i. Whether the Executor/Respondent is in contempt of court orders?ii. Who bears the costs of this application?
11. On the 1<sup>st</sup> issue as to whether the Executor/Respondent is in contempt of court? Objector/Applicant refers to the case of In Gulab Chand Poptatl Shah & Another Civil Application No. 39 Of 1990, (unreported). Where the Court of Appeal said: -
 

“It is essential for the maintenance of the Rule of Law and good order that the authority and dignity of our courts are upheld at all times. This court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors.....”
12. Further reference is made to the case of Hadkinson-v-Hadkinson (1952) 2 All ER. 167, it was held that: -
 

“It is plain and unqualified obligation of every person against or in respect of, who an order is made by a court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even in cases where the person affected by an order believes it to be irregular or even void.”
13. That, clearly, disobedience of court orders is paramount in the maintenance of Rule and Law as highlighted above. It maintains the dignity of the courts who are the Custodians of Law.
14. That the Executor/Respondent is in contempt of court orders. The court vide order dated 2<sup>nd</sup> October 2019 affirmed the will left behind by the late Hosea Karari Karanja dated 22nd august 2015. This will is part of court record and is disputed and the terms set out are clear.
15. That, the Executor/Respondent's own affidavit dated 29th February 2024, he acknowledged that some of the beneficiaries had not received the amounts ought to have been settled with them, interestingly, some of the beneficiaries had received amounts exceeding what they ought to have received. He was granted further 60 days to comply with the court den. On the 30th of April 2024, the honorable court extended this period to 17th June 2024.
16. The Objector/Applicant submit that as it stands, inclusive of the additional 60 days to comply with court orders, the Executor/Respondent herein is still net in compliance with coat orders. The Objector/Applicant Mary Wambui Karanja is still owed Ash 1,059,500 (one million fifty-nine



thousand five hundred shillings) which the Executor/Respondent has refused and/or neglected to pay in defiance of Court orders. The debt is not disputed. Further, a visit to me of the rental properties which the beneficiaries are entitled to receive a portion of the rent brought to light the fact that the Executor/Respondent has misled the court on the amount of rent being collected hence lowering the amounts he is expected to remit to the beneficiaries.

17. That he who alleges must prove. In this instance we place reliance on the evidence tendered by the Executor/Respondent before this honorable court and to be particular, the further affidavit sworn on the 21st day of June 2024, four days after the period of grace extended by the court for the Executor to comply with court orders. At paragraph 8 of the aforementioned affidavit, the Executor lists the amounts outstanding to the beneficiaries, as well as the amounts overpaid and underpaid. It is unclear how one party is overpaid to the tune of ksh 3,904,308, another party overpaid by ksh 606,800, another party overpaid by ksh.1,776,470 when the Objector/Applicant is still underpaid amongst other parties.
18. That this is a clear mismanagement of the estate of the deceased and a blatant contempt of court.
19. When it comes to contempt of court, Section 5 of the [Judicature Act](#) provides for contempt of court:

“The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and such power shall extend to upholding the authority and dignity of subordinate courts.

An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the High Court.”

20. Further reliance is placed on the case of Justus Kariuki Mate & Another vs Hon. Martin Nvaga Wambora & Another, Civil Appeal No. 24 of 2014 (Wambora case) the court had opportunity to interpret and apply Section 5 of the [Judicature Act](#) and made the following observation:

“It is imperative in considering this issue to consider the applicable law and the governing principles in contempt proceedings. As correctly pointed out by this Court in Christine Wangla Gachere--Elizabeth Wanfira ExaHA & 11 Others Civil Application No. 233 of 2007 the statutory basis of contempt of court in so far as the Court of Appeal and the High Court are concerned is Section 5 of the [Judicature Act](#) and Section 63(c) of the [Civil Procedure Act](#). Of relevance to this case is Section 5 of the [Judicature Act](#) which provides:

- ”5 The High Court and the Court of Appeal shall have the same power to punish
- (1) for contempt of court as is for the time being possessed by the High Court of Justice in England, and that power shall extend to upholding the authority and dignity of subordinate courts.
  - (2) An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in exercise of the original criminal jurisdiction of the High Court.” (Emphasis added)

That, based on the foregoing provision, the applicable law in contempt proceedings in Kenya is the law applicable in the High Court of Justice in England at the time the application for contempt was filed.”



21. That, the Court in *Christine Wangari Gachege -vs- Elizabeth Wanjiru Evans & 11 Ogers*, when dealing with the same issue concerning the applicability of English Law of contempt in our Courts had this to say:

“Following the implementation of the famous Lord Woolf’s Access to Justice Report, 1996’, the Rules of the Supreme Court of England are gradually being replaced with the Civil Procedure Rules, 1999. Recently on 14 October, 2012 the Civil Procedure (Amendment No. 2) Rules, 2012 came into force and part 81 thereof effectively replaced Order 52 of the Rules of the Supreme Court of England in its entirety.”

22. That, according to rule 81.9 all judgments or orders to do or not do an act may not be enforced in contempt proceedings unless a warning to the person required to do or not do the act in question tint disobedience to the order would be a contempt of court punishable by imprisonment, a fine sequestration of assets, has been prominently displayed, on the front of the copy of the judgment or order served. Consequently, the court order and penal notice must be served simultaneously. The terms of the rule are set out below:

“ 81.

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- (1) Subject to paragraph (2), a judgment or order to do or not do an act may not be enforced under rule 81.4 unless there is prominently displayed, on the front of the copy of the judgment or order served in accordance with this Section, a warning to the person required to do or not do the act in question that disobedience to the order would be a contempt of court punishable by imprisonment, a fine or sequestration of assets.
  - (2) The following may be enforced under rule 81.4 notwithstanding that they do not contain the warning described in paragraph (1)-
    - a. an undertaking to do or not do an act which is contained in a judgment or order; and
    - b. An incoming protection measure.

23. The Objector/Applicant submit that the Executor/Respondent was warned of his failure to comply with court orders. We further submit that the court exercised discretion and extended the period in which the Executor/Respondent was to comply with court orders. It cannot be disputed that the Executor has failed in the mandate issued by the court to him as regards compliance with court orders in this matter. Clearly the Executor is in contempt and cannot argue otherwise

24. That it is trite law that costs follow the events. The Executor/Respondent herein being in contempt of court orders ought to bear the costs of the application.

### **Analysis and determination**

25. I have considered the Record and the replying Affidavits by the Respondent/Executor noting that none of them has any justification as to why the widow of the deceased has not received her bi-annual payments.

26. The legal principles to inform contempt of court is;



- a. Wilful Disobedience is Key: Contempt is proven when the executor willfully and intentionally disobeys a clear and unambiguous court order of which they had proper notice.
  - b. Higher Standard of Proof: The standard of proof for contempt of court is higher than a balance of probabilities, almost but not exactly beyond a reasonable doubt, because it is a quasi-criminal offence.
  - c. Purpose of Penalties: The aim of the penalty is not to punish the person for the judge's ego, but to safeguard the rule of law and ensure that court orders are obeyed.
27. The Executor has had to be compelled to account and make payments and while being indulged he has clearly failed to purge his initial contempt dated 5<sup>th</sup> July 2022, of remark are the withheld over two years arrears are of the widow of the deceased.
28. In the case of Benson Ogina Ogallo versus Samson Omuombo Odido [2021] eKLR in dealing with contempt of court, cited the case of B versus Attorney General [2004] 1 KLR 431 where JB Ojwang, J (as he then was) where the court held that:-
- “The Court does not, and ought not to be seen to make Orders in vain; otherwise, the Court would be exposed to ridicule, and no agency of the Constitutional order would then be left in place to serve as a guarantee for legality, and for the rights of all people.”
29. Owing to the foregoing, it is my finding that the Executor willfully disobeyed court orders. When given an opportunity to purge the contempt, he failed, not only to make the back payments but also failed to give a cogent explanation for his conduct.
30. This court declines to interfere with the last wishes of the deceased in creating a continuing trust and that the Rent from L.R. Number 5/113; Hoska Plaza, Nakuru Town be collected by a reputable Estate Management Company and be deposited in account number 1310020426, Account name: Esther and George, Bank: Kenya Commercial Bank Limited, Nakuru Branch and the Executor/ Respondent, Nancy Wanjiru Karanja and Mary Wambui be included as mandatory signatories to the account.
31. For all the foregoing factors, now therefore, since the court is clothed with power under Rule 73 of the Probate and Administration Rules to make any orders that meets the ends of justice, in the interest of justice the court shall at this juncture direct;
- a. I find Felix Ng'ang'a Karanja the Respondent/Executor to be willfully in contempt of court.
  - b. Felix Ng'ang'a Karanja Shall forthwith pay to the Court a Fine of kshs 50,000/-.
  - c. Felix Ng'ang'a Karanja shall forthwith pay the objector/Applicant Mary Wambui Karanja kshs 1,059,500/- (one million fifty-nine thousand five hundred shillings) not later than (30) thirty days after this order.
  - d. In default of (b) and (c) above the Respondent/Executor shall be committed to civil jail for six months for being in contempt of court at the objector/Applicant's expense.
  - e. The Objector/Applicant shall have costs of the Application payable by the Executor and not the estate.
  - f. Any Party Aggrieved of this ruling has a 45 day leave to Appeal which period shall act as stay.

It is so ordered.

**SIGNED DATED AND DELIVERED AT NAKURU THIS 10<sup>TH</sup> DAY OF NOVEMBER, 2025.**



**MOHOCHI S.M.**  
**JUDGE**

