



REPUBLIC OF KENYA



**In re Estate of Johnson Evan Gicheru alias Johnson Evans Gicheru
alias Mr Johnson M Evans (Deceased) (Succession Cause E123 of 2023)
[2025] KEHC 17546 (KLR) (Family) (28 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17546 (KLR)

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

FAMILY

SUCCESSION CAUSE E123 OF 2023

PM NYAUNDI, J

NOVEMBER 28, 2025

**IN THE MATTER OF THE ESTATE OF JOHNSON EVAN GICHERU ALIAS
JOHNSON EVANS GICHERU ALIAS MR. JOHNSON M. EVANS (DECEASED)**

RULING

1. John Evan Gicheru alias Johnson Evans Gicheru alias Mr. Johnson M. Evans died intestate on 25th December 2020. Grant of Letters of Administration Intestate was issued Margaret Wangechi Gicheru on 9th May 2023.
2. The deceased is survived by the following;
 - i. Margaret Wangechi Gicheru- widow (deceased).
 - ii. Florence Wanjiru Gicheru –daughter.
 - iii. Rosalind Wanjiku Gicheru –daughter.
 - iv. Evalyne Njeri Gicheru – daughter.
 - v. Evan Njue Gicheru- son.
 - vi. Joseph Irungu Gicheru- son.
 - vii. Grace Wairimu Gicheru- daughter.
 - viii. Lilian Muthoni Gicheru- daughter.
3. Subsequent to the grant of letters of administration intestate the administrator presented summons for confirmation of grant dated 22nd November 2025. Not all the beneficiaries agreed to the proposed mode of distribution. The parties were referred to Court Annexed Mediation which gave rise to a partial settlement agreement dated 14th August 2024 which was adopted as an order of the court. The parties agreed;



1. Land Title No. Mutira/Kikrunda/1xxxx to be shared equally between Evan Njue Gicheru and Joseph Irungu.
 2. Land Title No. Mutira/Kaiga/0xxxx to be shared equally between Florence Wanjiru Gicheru, Rosalind Wanjiku Gicheru, Evalyne Njeri Gicheru, Grace Wairimu Gicheru and Lilian Muthoni Gicheru.
 3. Title Deed No. KJD/Kaputie- North/40xxxx be shared as follows;
 - a. All the seven children to get one acre each.
 - b. The mother to get three acres.
 4. Motor Vehicle Registration No. KBV xxx M Volks Wagen Toureg goes to Margaret Wangechi Gicheru.
 5. Kenya Electricity Generating Company Ltd (Kengen) shares go to Margaret Wangechi Gicheru
 6. Kirinyaga Traders Company Limited Shares goes to Evan Njue Gicheru.
 7. The family to follow up on properties mentioned and their clear position of existence which could not be ascertained during mediation process.
4. The parties failed to agree on the mode of Distribution of the following assets-
- a. I.R 13xxxxx.
 - b. I.R 137xxxx
 - c. I.R 9xxx.
 - d. I.R 95xxx.
 - e. I.R 103xxxx .
 - f. I.R 1034xxxx .
 - g. I.R 952xxxx.
5. The court therefore directed that that the protestors file their mode of distribution. Rosalind Wanjiku Gicheru, Lilian Muthoni Gicheru and Florence Wanjiru Gicheru filed their proposed mode of distribution dated 10th March 2025 as follows;



List Of Properties/assets	Beneficiary	Share
Title Deed No. Mutira/ Kirunda/1xxxx	Evan Njue Gicheru Joseph Irungu Gicheru	Equal shares
Title Deed No. Mutira/ Kiaga/60xxxx	Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Title Deed No. KJD/Kaputie- North/40xxxx	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Certificate of Title No. IR 137xxxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Certificate of Title No. IR 13xxxxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru	Equal shares



	Lilian Muthoni Gicheru	
Certificate of Title No. I.R 952xxxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Certificate of Title No. I.R 9xxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Certificate of Title No. I.R 95xxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Certificate of Title No. I.R 1034xxxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru	Equal shares



	Lilian Muthoni Gicheru	
Certificate of Title No. I.R 103xxxx (half)	Margaret Wangechi Gicheru Evan Njue Gicheru Joseph Irungu Gicheru Florence Wanjiru Gicheru Rosalind Wanjiku Gicheru Evalyne Njeri Gicheru Grace Wairimu Gicheru Lilian Muthoni Gicheru	Equal shares
Motor Vehicle Registration No. KBV xxx M Volks Wagen Toureg	Margaret Wangechi Gicheru	Absolutely
KENGEN Shares	Margaret Wangechi Gicheru	Absolutely
Kirinyaga Traders Company Limited Shares	Evans Njue Gicheru	Absolutely

6. Margaret Wangechi Gicheru filed a response to the above proposed mode of distribution which is dated 9th June 2025. She opposes the protestors proposed mode of distribution. She avers that parties entered in to a consent on how some properties should be distributed. That the proposed mode of distribution includes some of these properties in the mediation report. She opposes the distribution of KJD/Kaputie- North/40xxxx to be shared equally amongst all the beneficiaries. She avers that she has put up a permanent house in one of the portion. She argues that the cost of sub dividing the properties and the beneficiaries will end up with small portions which will diminish the value of the properties.
7. She proposes the properties be consolidated as one property then she takes half of the total acreage and share the remaining with her seven children. Alternatively, each child is allocated a parcel of land then she excises half of it from each child. She avers that the seven properties have an outstanding land rates of Kshs. 589, 850. She urged the court to allow her proposed mode of distribution. She proposes that the remaining seven properties be distributed as follows;



NO.	Description Of Properties	Beneficiary	Share
1.	Certificate of Title No. I.R 95xxx (half)	Evan Njue Gicheru	Absolute
2.	Certificate of Title No. I.R 9xxx (half)	Rosalind Wanjiku Gicheru	Absolute
3.	Certificate of Title No. I.R 952xxxx (half)	Florence Wanjiru Gicheru	Absolute
4.	Certificate of Title No. I.R 103xxxx (half)	Evalyne Njeri Gicheru	Absolute
5.	Certificate of Title No. I.R 1034xxxx (half)	Grace Wairimu Gicheru	Absolute
6.	Certificate of Title No. IR 13xxxxx (half)	Lilian Muthoni Gacheru	Absolute
7.	Certificate of Title No. IR 137xxxx (half)	Joseph Irungu Gicheru	Absolute

8. Parties filed written submissions in support of their proposed mode of distribution.

Administrator's Written Submissions.

9. The Administrator submits that the objection is an abuse of the court process because it was filed out of the stipulated 30 days as provided by Section 67 and 68 of the *Law of Succession Act*. Reference was placed on the decision in *In re Estate of Caleb Oluchina Opuka, Deceased* [2019] KEHC 10xxxx8 (KLR). She further submits that the affidavit filed by the protestors is not a protest. According to her, a person objecting to the confirmation of a grant is required to file a protest and not an affidavit. Reliance was placed on the decision in *In re Estate of David Ngoosa Mua (Deceased)* [2016] KEHC 5985 (KLR). Relying on the decision of *Muhuri Muchiri v Hannah Nyamunya (Sued as the Administrator of the Estate of Njenga Muchiri also Known as Samuel Njenga Muchiri (Deceased) (1076 of 2014) [2015] KEELC 499 (KLR) (Environment and Land) (7 May 2015)*, the administrator submits that the remaining properties are registered in her name and that of the deceased. According to her, she is a tenant in common and is therefore entitled to half of each property. She urged the court to distribute the remaining properties to each beneficiary then she excises half from each one of them.

Protestors Written Submissions.

10. The protestors submit that although the surviving wife of the deceased is entitled to a life interest, the court should not award the same to her. Instead, the court should consider the interest of the other beneficiaries and distribute the properties equally amongst them.



Analysis And Determination.

11. The issue for determination is;
 - i. How the estate should be distributed.

What constitutes estate or free property of the deceased?

12. It is common ground that the parcels of land are registered in the joint names of the deceased and the administrator as tenants in common in equal shares. Only half of each parcel is available for distribution. There are 3 proposals on how the half share of the deceased should be distributed.
13. The administrators proposes that since the parcels of land are neighboring each other, she be allowed to consolidate all the parcels of land, divide in two retaining her share and then she subdivides the other half between the 7 beneficiaries, she is prepared to surrender her life interest.
14. She has a second proposal, she excise her half portion from each parcel and then the remaining half be registered in the name of an individual child, for each of the 7 parcels of land. She will again forfeit her life interest.
15. The 3rd proposal is by the protestors. They propose that each of the parcels of land be divided equally among the 8 beneficiaries. They base their proposal on the provisions of Sections 29, 35 and 38 of the *Law of Succession Act*, which requires that in the case of intestate administration the estate be divided equally among all the beneficiaries.
16. The administrator is opposed to the proposal as in her view it will cause a devaluation of the property and that the resulting parcels will be small. Further she states that cost of subdividing the properties is prohibitive if the Court adopts the proposal by the protestors. Courts step in to distribute the estate when as in the current case parties are unable to agree.
17. As well articulated in the celebrated decision of *Mary Rono vs Jane Rono & Another*, [200] eKLR, the principle of equal shares in land distribution is tempered by the principle of equitable distribution. This approach allows the Court to take an approach that avoids physical division of each parcel of land that may result in uneconomical sizes or increases the Costs of transmission if this can be avoided. The Court in exercising its discretion should ensure a fair distribution of the deceased's estate.
18. Having regard to the circumstances, I favour the first proposal of the administrator. She has waived her life interest. She is entitled by operation of law to half share of each of the parcels of land. She has forfeited her interested in the half that comprises the deceased's estate.
19. It is fair therefore that she be allowed to consolidate the parcels, divide the emerging parcel of land in half. Retain her half and then divide the other half in 7 equal shares.
20. In the affidavit of protest, the protestors seek to alter the mode of distribution with regard to parcel, Title Deed No. KJD/Kaputie-North/40xxxx. This is not possible as the same was already resolved in the partial settlement agreement that has since been adopted by the Court.
21. On account of the foregoing the following are the final orders;
 - a. The Grant issued to the Administrator herein on 9th May 2023 is confirmed
 - b. The Estate of the Deceased is to be distributed as hereunder;
 1. Title Deed No. Mutira/Kirunda/1xxxxto be shared equally between Evan Njue Gicheru and Joseph Irungu Gicheru.



2. Title Deed No. Mutira/ Kaiga/60xxxx to be shared equally between Florence Wanjiru Gicheru, Rosalind Wanjiku Gicheru, Evalyne Njeri Gicheru, Grace Wairimu Gicheru and Lilian Muthoni Gicheru.
3. Title Deed No. KJD/Kaputie- North 40xxxx to be shared as follows;
 - i. Margaret Wangechi Gicheru- 3 acres.
 - ii. Evan Njue Gicheru – 1 acre.
 - iii. Joseph Irungu Gicheru- 1 acre.
 - iv. Florence Wanjiru Gicheru -1 acre.
 - v. Rosalind Wanjiku Gicheru – 1 acre.
 - vi. Evalyne Njeri Gicheru- 1 acre.
 - vii. Grace Wairimu Gicheru – 1 acre.
 - viii. Lilian Muthoni Gicheru – 1 acre.
4. Motor Vehicle Registartion No. KBV xxx M Volks Wagen Toureg goes to Margaret Wangechi Gicheru.
5. Kenya Electricity Generating Company Ltd (KENGEN) shares go to Margaret Wangechi Gicheru
6. Kirinyaga Traders Company Limited Shares goes to Evan Njue Gicheru.
7. With regards to I.R 13xxxxx, I.R 137xxxx, I.R 9xxx., I.R 95xxx., I.R 103xxxx ., I.R 1034xxxx , I.R 952xxxx the same shall be registered in the name of the Administrator. The Administrator shall consolidate the same into a single parcel of land and then hive off her ½ share of the consolidated title and divide the other half in equal shares between the 7 children of the deceased.
8. The Administrator will finalise transmission of the Estate within 9 months
9. Mention on 5th October 2026 to confirm compliance.
10. Parties are at liberty to appeal, any party exercising their right of appeal to do so within 30 days

22. Each party shall bear their own costs.

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 28TH DAY OF NOVEMBER, 2025.

P. M. NYAUNDI

JUDGE

In the presence of:

Fardosa Court Assistant

Mwirigi Mbabu holding brief Ms. Purity Mbabu for Administrators

Rosalind Gicheru – Protestor in person

