

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KIAMBU

SUCCESSION CAUSE NO. 4 OF 2019

(Consolidated with)

SUCCESSION CAUSE NO. 8 OF 2019

IN THE MATTER OF THE ESTATE OF MICHAEL GICHUHI
MUIRU (DECEASED)

GRACE NJERI GICHUHI.....1ST
PETITIONER
GODFREY KIHUHA GICHUHI.....2ND
PETITIONER

VERSUS

MOSES MUIRU GICHUHI.....1ST
RESPONDENT
JENNIFER MUTHONI GICHUHI.....2ND
RESPONDENT
MICHAEL GICHUHI WANJIKU.....3RD
RESPONDENT
JUDY WANJIRU GICHUHI.....4TH
RESPONDENT
JANE WANYUA GICHUHI.....5TH
RESPONDENT

RULING

BACKGROUND

1. **GRACE NJERI GICHUHI** and **GODFREY KIHUHA GICHUHI** on 21st January, 2019, petitioned the Court for a grant of letters of Administration Intestate for the estate of the deceased herein who died on 4th January, 2019. They listed the beneficiaries of the deceased's estate as well as

a full inventory of the deceased's assets as at the date of the death of the deceased.

2. Similarly, on 30th January, 2019, vide Succession Cause No. 8 of 2019, **MOSES MUIRU GICHUHI**, petitioned the Court, for a grant of Probate of the last **WILL** of the deceased herein **MICHAEL GICHUHI MUIRU**. He stated that the deceased died leaving a valid written **WILL** dated the 23rd October, 2018.
3. On 30/1/2019 the two causes were consolidated with Succession Cause No. 4 of 2019 being the main reference file.
4. On 21st February, 2019, before both causes were gazetted, the 1st Respondent herein **MOSES MUIRU GICHUHI** filed his Objection to making of a grant dated 20th February, 2019 in respect of the Petition by the Petitioners herein dated 18th January, 2019.
5. The Objection is based on the grounds that;-
 - a) The deceased left a valid **WILL** with his advocates dated 23rd October, 2018 and in which **WILL** the deceased appointed him, **MOSES MUIRU GICHUHI** as the executor and sole trustee of the deceased's estate and which **WILL** was read to all family members on 16th January, 2019.
 - b) The Petitioners were aware of the existence of the **WILL** when they filed the Petition for a limited grant under intestate succession.
 - c) The **WILL** was duly filed for probating in Probate & Administration Cause No. 8 of 2019 Kiambu which

cause was consolidated with Succession Cause No. 4 of 2019.

d) The deceased having died testate means that the issue of probating of the **WILL** takes precedent over making of any form of grant.

6. On 22nd March, 2019, the two causes were gazetted and as such, the court directed that parties were at liberty to file an Objection. Further, by consent the court made an order that the DCI could have access to the original **WILL**.
7. Subsequently, on 24th April, 2019, the Petitioners herein filed an Objection to the making of a grant in Succession 8 of 2019.
8. The Objection is based on the grounds that;-
 - e) The deceased did not write or execute any **WILL** at all.
 - f) The purported **WILL** of the deceased is a forgery.
 - g) The purported **WILL** of the deceased only makes provision and entitlement to the Petitioner only which is impractical, inappropriate and most unlikely.
 - h) The deceased was not in a proper state of mind to have made such a **WILL** at the alleged time.
 - i) The deceased could not have instructed the firm of F. N. Njanja & Co. Advocates to draw such a **WILL** as alleged.
9. Parties were directed to file their affidavits in respect of the Objection. On 26/9/2019, the Court further directed that the Objection will be heard by way of witnesses adopting their affidavits as their evidence in chief and thereafter being cross examined.

10. Subsequently, the matter came up for hearing on 23/3/2021. **FRANCIS NYAGA NJANJA (PW1)** testified that he is an advocate. He adopted his affidavit relating to the **WILL** and testament of the deceased which **WILL** he produced as an exhibit (**P.Exh. No. 1**) during his evidence in chief.
11. In cross-examination, he testified that the deceased was his client from 2010 and that he is the one who prepared the **WILL** personally. The deceased visited his office first in 2017 where he was advised on the requirements in respect of the **WILL**. The deceased came back with a list of all his properties as well as beneficiaries and he also provided details for his resting place. Further, he read the **WILL** after the deceased's demise and that the **WILL** provided for a testator who was also the trustee and his advice to the deceased to have two executors was not welcome. He stated that the deceased wanted to sign only one page and that it is not a legal requirement that all the pages be signed. When the deceased was informed that the people who had been disinherited would challenge the **WILL**, the deceased stated let them do it. He stated that he was never summoned by the DCI to record a statement but the DCI visited his office and took away three (3) computers. He stated that he was not aware that the DCI examined the **WILL** and that the handwriting expert indicated that the signature on the **WILL** and those on the documents given were not the same. His testimony was that the **WILL** was executed at his office and the same

was not forged and that the **WILL** was witnessed by the bodyguard and his secretary as deceased said that they were close to his family.

12. In re-examination he insisted that he did not know the members of the deceased family before the death of the deceased and only disclosed the burial place when he first visited the home and not the contents of the **WILL**. He stated that Moses did not know of the **WILL** before it was read.
13. **SUSAN WAWIRA WACHIRA (PW2)** an Administrative Assistant at F.N. Njanja wished to adopt her witness statement as her evidence.
14. In cross-examination she stated that the deceased visited their office in October 2018 and that together with Mburu (**PW4**) they were called by Mr. Njanja as they were the employees who were in the office. They were informed that they were going to be witnesses to the deceased's **WILL** which was read out to them by Mr. Njanja. She stated that there were two copies but she signed on one copy. She stated that she signed the **WILL** after the deceased had signed and that the deceased was not looking sickly.
15. In re-examination, she stated that she had not interacted with the deceased as she only welcomed him and took him to Mr. Njanja's office.
16. **EMMANUEL KARISA KENGA (PW3)** a forensic document examiner testified that he retired from the Police Force in 2015 and that he does examinations privately. On

17/5/2019, he received a request for examination of documents from F.N. Njanja & Company Advocates. The request was for a **WILL** marked A1 and two documents of known signature of deceased being a cheque and Identity Card of the deceased marked B1 and B2. He stated that from his analysis of the signatures, he discovered peculiar characteristics that showed that the signatures were made by the same author. He produced the Report (PExb. No 2) dated 21/5/2019.

17. In cross examination he stated that he was gazetted as a document examiner while he was a police officer but now works with Smart Eye Technologies and Consultants. He used a copy of the **WILL** for his examination. He stated that in the absence of a primary document one can examine the secondary document if it was clear. Lastly, he stated that in this case he would not have arrived at a different opinion if he had examined the original **WILL**.
18. In re-examination he clarified that he was not degazetted as a document examiner and that there is no professional body that governs forensic examiners.
19. Upon being recalled he produced another Report dated 10/07/2023 as his evidence. He disagreed with the findings of the Report dated 16/7/2021.
20. **JOHN MBURU CHEGE (PW4)** a Personal Assistant at Njanja's Law Firm wished to adopt his affidavit dated 30/7/2019.
21. During cross examination he stated that he used to do clerical duties at Njanja's firm. The deceased visited the

firm severally but he did not know what the deceased was discussing with Mr. Njanja. He stated that the **WILL** was prepared by Mr. Njanja and it was read out to them. He had never been to the deceased home until at the time of burial and reading of the **WILL**. He stated that he signed the **WILL** once and that they were informed not to disclose the **WILL**.

22. The 2nd Respondent in this instant case did not submit on the validity of the **WILL** but rather on the removal of the Executor for failure to execute his duties as required by the law.
23. **MOSES MUIRU GICHUHI** closed his case.
24. **DAVID GACHURUBA KABAGO (DW1)** adopted his affidavit dated 6/3/2020. He testified that he works in Kiambu as a County Askari. That after the death of the deceased he received a call from Njanja Advocate who asked to be taken to Baba Wanja also known as Waweru. They proceeded to Waweru's home where they found the wife who informed them that Waweru had left for church. The wife was asked to pass the message to her husband that the deceased's advocate wanted his signature and to meet at the funeral meeting to be held at 3.00pm. He attended the said meeting but Njanja Advocate did not turn up. He was called at the DCI headquarters to record a statement.
25. **JOHN WAWERU WAHIU (DW2)** wished to adopt his affidavit dated 6/3/2020 as his evidence in chief. When he got home from church, his wife informed him that the

deceased's advocate Mr. Njanja had visited the home and that he had a **WILL** that he wanted signed. He stated that the deceased was his friend and his advocate was called Kaburu and he had never mentioned to him that he had a **WILL**. He attended the funeral meetings and never saw Mr. Njanja. He stated that the deceased never cursed any of his children or wife. He recorded a statement at DCI Kiambu.

26. **NO. 231671 SPT. ALEX MWONGERA (DW3)** stated that he is a document examiner based at DCI headquarters and that he was required to access the original **WILL** and compare signatures vide the order dated 28/3/2019. He received the purported original Will of the deceased and known signatures of the deceased being receipts from Top Hill Hotel. The Investigating Officer wanted to ascertain that the marked signatures were made by the same person. He carried out his investigations and his opinion was that the signatures were not made by the same author. When he was shown the report by Emmanuel Kenga he stated that the rule of thumb was to examine originals. His report was verified by another examiner such that if there was an error the same would have been corrected.
27. During cross examination he stated that the purpose of the report was to assist in criminal proceedings where Njanja Advocate had been suspected of forgery of the deceased's **WILL**. He stated that the signature in the **WILL** seemed to have been traced.

28. Lastly in re-examination he stated that signatures affected by illness, age, intoxication, pen failures do not look like any of the effects on the deceased's signature.
29. **LUCY WAMBUI WAWERU (DW4)** adopted her affidavit recorded on 6/3/2020 as her evidence.
30. In cross examination she stated that on 6/1/2019, Njanja Advocate wanted to talk to her husband to sign a document. She did not see the said document as it was in a bag.
31. **KABURU MIRITI (DW5)** an advocate wished to adopt his affidavit as his evidence recorded on 9/3/2020. He stated that the deceased was his client from 2003. The deceased died intestate as he had visited him when he was bed-ridden. He had drafted **WILLS** that were never signed. If the deceased had made a **WILL** he would have been the first to have known about it.
32. **GODFREY KIHUHA GICHUHI (DW6)** the deceased's son wished to adopt his affidavit sworn on 6/3/2020 as his evidence. He stated that deceased never wrote any **WILL** and if any it would have been signed and his friends would have known about it. The deceased would not have left the **WILL** in the hands of Moses as he is selfish.
33. In cross examination, he stated that Njanja came to their home where he stated that he is an advocate and wanted to read the **WILL** belonging to the deceased. His father was sickly as such he could not have signed a **WILL**.
34. In re-examination he produced hospital bills as evidence that his father was sick and that the deceased had been

admitted at MP Shah in October and the **WILL** was prepared in 23/10/2018. He produced the discharge summary. Counsel submitted that was the close of their case.

35. The parties were directed to file their written submissions on the validity of the **WILL**.

PETITIONERS'/OBJECTORS' SUBMISSIONS

36. The Petitioners submitted that the deceased did not leave a valid **WILL** and that the deceased never signed the alleged **WILL**. The Petitioners submitted that no retainer can be implied from the conduct of Mr. Njanja or his associates and alleged witnesses to the alleged **WILL**. Reliance was placed on among other cases the case of ***Omulele & Tollo Advocates vs Mount Holdings Limited (2016) eKLR***. Njanja Advocate failed to table any evidence to show that the deceased was ever his client. Further, the deceased was said to be ailing from February, 2018 as such he was unable to perform tasks like driving to Ngong Road and/or discussing or executing a **WILL**. The deceased was said to lack the mental/testamentary capacity or physical capacity being that he was in and out of hospital and in a lot of pain. Reliance was placed in the case of ***Banks vs Goodfellow (1870) LR 5 QB 549***. It was the Petitioners submissions that the deceased could not have made a **WILL** giving over 90% of his estate to **MOSES** (1st Respondent) who was said to be the most irresponsible child of the family which claim the **MOSES** did not challenge by way of

evidence. **DW5** submitted that best practices dictate there should be more than one copy of the will signed on every page. The purported **WILL** was said to be a fraud and forgery. The document examiner Mr. Kenga was said to have failed to examine original documents. That the document examiner failed to show the authenticity of the deceased's purported signature on the **WILL**. Reliance was placed on among other cases the case in ***Re Estate of Jackson Kiprotich Kibor (deceased) (2024) KEHC 211 (KLR)***. It was submitted that forgery had been proved by the Petitioner. The Court was urged to issue a Grant to the Petitioners and for the 1st and 2nd respondents to bear the costs of these proceedings.

1ST RESPONDENT/EXECUTOR'S SUBMISSIONS.

37. **MOSES** the 1st respondent submits that the deceased **WILL** meets the formal requirements as it was signed by the deceased in the presence of two (2) witnesses. It was submitted that the discrepancies in his witnesses testimonies can be attributed to passage of time but do not affect the substance of the evidence as to undermine the credibility of the witness as such the court was urged to find that the **WILL** is valid. Reliance was placed in the case of ***Ndirangu vs Ndirangu (Civil Appeal 141 of 2019) (2022) KECA 1296 (KLR)***. The deceased was said to have testamentary freedom as to dispose his property as he wished and that there is no legal requirement that a testator should inform his family and friends that he has made a **WILL**. In any case, it was submitted that no

application for reasonable provision has been made for consideration. It was submitted that the Objectors did not provide a medical report to prove that the deceased did not have the capacity to make the **WILL**. Reliance was placed in the case of ***Erastus Maina Gikunu & another vs Godfrey Gichuhi Gikunu & another (2016) eKLR***. The deceased illness was said not to be prove of mental incapacity. In placing reliance in the English case of ***Lee Donald Barclay vs Thorntons Trustees Limited & others (2024) CSOH 18, MOSES*** (the 1st Respondent) submits that while expert opinions are valuable, the credibility and reliability of eyewitnesses testimony can play a crucial role in the Court's decision making process. In the end, the allegation of forgery was said to have not been proved as no legal action followed the police complaint as no evidence of forgery had been found.

5TH RESPONDENT'S SUBMISSIONS

38. The 5th Respondent submits that the deceased did not have the testamentary capacity to make a Will as his mental state due to his physical ailments rendered him incapable of forming the requisite mental capacity to execute a valid **WILL**. Reliance was placed in the case of ***Banks vs Goodfellow (1870) LR 5 QB 549***. The strong medication used by the deceased were said to have severely affected his mental condition rendering him unable to comprehend the nature of his actions during the making of the WILL hence rendering the **WILL** invalid. It was submitted that the **WILL** was a forgery as Njanja the

advocate who allegedly drafted the **WILL** has not produced any documents that indicate that he had an advocate-client relationship with the deceased. Further, it was submitted that the document examiner failed to examine original documents which is the best evidence rule. Reliance was placed in the case of ***Re Estate of Jackson Kiprotich Kibor (deceased) (2024) KEHC 211 (KLR)***. Further, that photocopies being used instead of original meant that the same could have been manipulated or superimposed as such the expert report is not admissible.

ISSUES FOR DETERMINATION

39. Having considered the record and the rival submissions by the parties, the main issue arising for determination is whether the alleged **WILL** dated 23rd October, 2018 is valid.

ANALYSIS

40. The main issue in contention in the instant Succession Cause is the validity of the alleged **WILL** of the deceased herein dated 23rd October, 2018.

41. The Petitioners objected to the making of the grant on the grounds that the deceased did not leave a **WILL** and the purported **WILL** by the deceased is a forgery. In any case, the deceased was said not to be in a proper state of mind to make the alleged **WILL** at the alleged time.

42. **MOSES**, 1st Respondent alleged to have been appointed as the executor and trustee of the deceased's estate vide the **WILL** dated 23rd October, 2018.
43. **MOSES's** witnesses being the advocate (**PW1**) who allegedly drafted the **WILL**, his two employees who witnessed the deceased signing the **WILL** and the document examiner who examined the deceased's signatures all testified that the **WILL** is valid having being made by the deceased before his demise and in accordance with the law.
44. The Petitioners/Objectors witnesses were of a different opinion. **DW1**, **DW2** and **DW4** alleged that Njanja Advocate was looking for **DW2** to sign the alleged **WILL** after the death of the deceased. The document examiner testified that his opinion was that the deceased's signatures upon his analysis were not made by the same author. Further, Kaburu Advocate stated that the deceased was his client while Godfrey the deceased's son testified that the deceased could not have made the alleged **WILL** as he was sick.
45. Section 11 of the Law of Succession Act, provides as follows:-

a. "Written wills.

b. No written Will shall be valid unless-

the testator has signed or affixed his mark to the Will, or it has been signed by some other person in the presence and by the direction of the testator;

the signature or mark of the testator, or the signature of the person signing for him, is so placed that it shall appear that it was intended thereby to give effect to the writing as a Will;

the Will is attested by two or more competent witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will, in the presence and by the direction of the testator, or have received from the testator a personal acknowledgement of his signature or mark, or of the signature of that other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.”

46. There exists a **WILL** allegedly prepared by Njanja Advocate, signed by the deceased and witnessed by two employees from the firm of Njanja Advocate.
47. The gist of the dispute herein is that the deceased's signature on the WILL dated 23rd October, 2018 is a forgery. Both sides presented reports from their document examiners.
48. Claims of forgery are serious claims that ought to be proved.
49. In ***Re Estate of Samuel Ngugi Mbugua (Deceased) (2017) eKLR***, the court was of the view that;-

‘The allegation that the said signature was not that of the deceased amounts to a claim that the signature was forged or that fraud was exercised in the procurement of the alleged will. That is to say that someone other than the deceased had affixed that

mark on the will with the intent of passing the same as the signature of the deceased. Forgery is a criminal offence. The applicant is in fact imputing criminal conduct on either the person propounding the will or those who were involved in the operation that is purported to have been its execution. The burden of proving forgery lies with the person alleging it. In Elizabeth Kamene Ndolo vs George Matata Ndolo Nairobi Court of Appeal civil appeal number 128 of 1995 it was stated that the charge of forgery or fraud is a serious one, and the standard of proof required of the allegor is higher than that required in ordinary civil cases.'

50. Refer also to the case ***in re Estate of Francis Andabwa Nabwangu (Deceased) (2021) eKLR*** where the court stated that: -

“The way to deal with allegation of forgeries of signatures on a Will is to have them referred to handwriting experts or document examiners for comparison of the alleged forged signatures with the known signatures of the deceased, as was said and done in In Re JNM (Deceased) [2005] eKLR (Koome, J). See also Elizabeth Kamene Ndolo v George Matata Ndolo [1996] eKLR (Gicheru, Omolo and Tunoi, JJ.A) and In re Estate of the late Samson Kipketer Chemirmir (Deceased) [2019] eKLR (Ndung’u, J). The opinion of document examiners or handwriting experts is critical.”

51. The Petitioners/Objectors engaged a document examiner, Mr. Mwongera whose report dated 16/7/2021 indicated

that the signature on the original **WILL** compared with the signatures on the exhibits being the Articles of Association, court documents (verifying affidavit) as well as receipts from Top Hill Hotel showed that the signatures were dissimilar and distinguishable. He averred that the results were verified by a second expert who found the report to be correct.

52. Moses's document examiner, Mr. Kenga, in his report dated 21/5/2019, after analyzing the deceased's signature from a copy of the **WILL** compared with deceased's signatures from his cheque and Identity Card No. 5191675 found there were similarities on the signatures indicating that they were made by the same author. Further, he produced his report dated 10/7/2023 where he disagreed with the report dated 16/7/2021 by Mwongera.
53. It is trite law that the standard of proof of fraud is higher than the balance of probability in civil cases.
54. After careful consideration of the reports by the document examiners from both sides this Court is inclined to find that the opinion by the document examiner provided by the Petitioners is more probable.
55. This is because this Court vide its order issued on 28/3/2019 had directed that the original **WILL** be made available to the document's examiner for purposes of authentication. There is no reason why the documents examiner (PW3) opted to examine signatures provided from a copy of the **WILL** when the original **WILL** was available. It being MOSES's case, he ought to have taken

the issue of authentication seriously given that the claim of forgery had been alleged by the Petitioners.

56. Mr. Kenga document examiner (**PW3**) testified that he would not have arrived at a different opinion if he had examined the signature on the original **WILL**. On this, the court agrees with (**DW3**) that the rule of thumb is to examine originals and only use photocopies if the original is not available. In this case the original **WILL** was readily available for examination.
57. Refer to the case of **James Gitingu Wamagata & another v David Migichi Kageni (2015) eKLR** where the court held that;-

“It is common knowledge that the best evidence for examination purposes is always the original documents. Photocopies typically do not reveal all the evidence found on the original document, significant quality and features of the writing, indentations, outlines, feather strokes, pen stops, alterations, etc.”

58. The issue of deceased's health has also been raised by the Petitioners/Objectors where they claim that during the alleged period of making the **WILL** the deceased was sick and as such, he was not in a position to make a valid **WILL**.
59. The Petitioners/Objectors submit that the deceased was sick from February, 2018 and he was in and out of hospital hence he lacked mental and physical capacity to sign the alleged **WILL**.

60. **MOSES** on his part submitted that there is no medical report placed before the Court to show that the deceased lacked capacity to sign the **WILL**.

61. Section 5 of the Law of Succession Act, deals with capacity to make a **WILL**. It states as follows;-

“5(3) Any person making or purporting to make a Will shall be deemed to be of sound mind for the purpose of this section unless he is, at the time of executing the Will, in such a state of mind, whether arising from mental or physical illness, drunkenness, or from any other cause, as not to know what he is doing.

(4). The burden of proof that a testator was, at the time he made any will, not of sound mind, shall be upon the person who so alleges.”

62. The essentials of testamentary capacity were laid out in ***Banks vs. Goodfellow (1870) LR 5 QB 549***, where the court stated that -

“A testator shall understand the nature of the act and its effects, shall understand the extent of property of which he is disposing; shall be able to comprehend and appreciate the claims to which he ought to give effect; and, with a view to the latter object, that no disorder of the mind shall poison his affections, pervert his sense of right, or prevent the exercise of his natural faculties-that no insane delusion shall influence his will in

disposing property and bring about a disposal of it which if the mind had been sound, would not have been made.”

63. This Court has perused the numerous medical documents provided by the Objectors that demonstrate that the deceased was aged 83 years and was being treated for Colon Cancer among other diseases and that the deceased was indeed in and out of hospital being MP Shah Hospital, Mediheal Diagnostic & Fertility Centre and Cancer Care Limited which facilities he visited even on the month of October when the **WILL** was allegedly prepared.
64. This Court has taken into consideration the questionable surrounding circumstances in the making of the **WILL**; how a sickly 83 year old recently discharged from hospital where he had been undergoing treatment for colon cancer; and in this condition and with no escort got into a car all alone and drove himself to Ngong Road to **PW1s** offices to write a **WILL**; which **WILL** named **MOSES** as the sole executor **and Trustee**; it left most of his properties to **MOSES** and at the same time disinherited some beneficiaries;
65. This script has the hand of **MOSES** written all over. It would appear that during this time the deceased was gravely indisposed he was under the control and influence of **MOSES** to the exclusion of the other family members; as a result the **WILL** was completely in his favour.
66. This Court is satisfied that such a WILL made under these circumstances raise issues of coercion and the WILL

cannot be allowed to stand because the process is found to be defective.

67. Reference is made to Section 7 of the Law of Succession Act; which reads as follows;-

“A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, or has been induced by mistake, is void.”

68. MOSES averred that the deceased enjoyed testamentary freedom to dispose of his property in any way that he wished.

69. Be that as it may, there is a critical assertion that the deceased was in the habit of making WILLS which he never executed; this assertion came out in the evidence of Mr. Kaburu Advocate (DW5); there was a likely hood that the WILL was indeed made but may have never been signed by the deceased; upon the deceased’s demise there is evidence that suggests that the signature was affixed by someone other than the deceased;

70. Any question that is raised that creates doubt must have an explanation; the question that arises is why the document examiner failed to follow the best practice rules of using the Original WILL for comparison and instead used a photocopy. Secondly, he failed to seek corroboration from a fellow document’s examiner. No explanation was forthcoming from MOSES and his witness.

71. This Court is satisfied that the alleged **WILL purportedly made** by the deceased was not properly signed by the

deceased and/or witnessed by the alleged witnesses as the signature on the purported Will fails the authentication test.

72. In light of all these circumstances, this Court is satisfied that the WILL cannot be valid as it was made under a defective process and the WILL is found to be invalid.

FINDINGS AND DETERMINATIONS

73. This Court makes the following findings and determinations;

- (i) The WILL is found to be invalid;
- (i) A Grant of Letters of Administration to issue in the names of **GRACE NJERI GICHUHI and GODFREY KIHUHA GICHUHI**
- (ii) Leave is hereby granted to the Administrators to file and serve the Summons General for Confirmation of the Grant before the lapse of the statutory period of six months
- (iii) This being a very protracted family matter each party shall bear their own costs.
- (iv) Mention on 11/03/2026 for directions.

Orders Accordingly

**DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU
THIS 28TH DAY OF NOVEMBER, 2025.**

**A. MSHILA
JUDGE**

In the presence of:-
Sanja - Court Assistant

Chebet - h/b for Kinyanjui for 4th and 5th Respondents

Kirimi - for Petitioners in No.4 of 2019

Odhiambo - h/b for Maina for 2nd Respondent

Musyoka - for the Executor in No.8 of 2019

ORIGINAL