



REPUBLIC OF KENYA



KENYA LAW

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**In re Estate of the late Peter Kamere Kamere (Deceased) (Succession Cause
218 of 2000) [2025] KEHC 17914 (KLR) (2 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 17914 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 218 OF 2000
RN NYAKUNDI, J
DECEMBER 2, 2025**

N THE MATTER OF THE ESTATE OF THE LATE PETER KAMERI KAMERE (DECEASED)

BETWEEN

TERESIA WANJIKU 1ST APPLICANT

SILVIA WANJIKU 2ND APPLICANT

AND

FRANCIS KARANJA 1ST PETITIONER

DANIEL NJEHIA KAMIRI 2ND PETITIONER

RULING

1. This is a matter requiring judicial determination on the mode of distribution of the unregistered properties belonging to the intestate estate of Peter Kamere Kereme. These properties include a parcel of land at Race Course and another at Langas. In the ruling dated 29th February 2025, this Honourable stated that regarding the unregistered parcels of land at Racecourse and Langas, the Court acknowledges the consent agreement dated 14th July, 2003, which distributed these properties among certain beneficiaries but excluded Teresia Wanjiku and Silvia Wanjiru Kamiri. The Court also stated that the Applicants expressed objection to this consent agreement and the resultant court order, asserting that they did not consent to the distribution scheme.
2. As previously noted in the ruling of 25th September 2023, the Applicants failed to demonstrate that they withheld consent from the original certificate of grant; indeed, they acknowledged their participation in and agreement to the initial mode of distribution. However, it is manifestly clear that they did not consent to the subsequent amendment that resulted in the distribution of additional properties discovered after the original consent. The Court emphasized that despite the Applicants' involvement in the initial consented mode of distribution, they were improperly excluded from the amendment process that occurred following the discovery of additional properties. In a nutshell, the



Court declined to interfere with an order obtained through consent but permitted the parties to file proposed modes of distribution to remedy the Applicants' exclusion. The Court further stated as follows in its ruling dated 29th February 2025;

“ 14. In light of these considerations, I find it necessary to seek clarification on the status of the properties before proceeding with the distribution of the estate. The Court must be satisfied that all assets of the deceased have been properly accounted for and that any transactions involving estate properties have been conducted with due regard to the interests of all beneficiaries.

15. In the upshot, the following orders shall abide:

a. The Petitioners (Pius Kipchumba and Wesley Kogo) shall, within thirty (30) days from the date of this order, file and serve an affidavit providing comprehensive particulars regarding:

i. The current status of the unregistered properties at Racecourse and Langas that were included in the amended consent dated 14th July, 2003;

ii. Full details of any sale transactions involving the said properties, including dates of sale, consideration received, identity of purchasers, and current registration status;

iii. Documentary evidence supporting any claims of sale, including sale agreements, transfer documents, and proof of receipt of proceeds;

b. In the alternative, should the Petitioners fail to provide satisfactory particulars as directed above, the Director of Land Adjudication/The Land Registrar/Community Land Registrar or as the case may be is hereby directed to: Prepare and submit to this Court, within sixty (30) days, an executive summary detailing the current registration status, ownership, and any encumbrances on the said properties.

3. In view of the above, the Petitioners/Administrators herein filed their proposed mode of distribution dated 3rd July 2025 and averred as follows: -

a. The entire estate was fully distributed in 2003.

b. There were 5 plots in Langas belonging to the Petitioners as allocated to them during distribution in 2003: - Langas/Block II Plot No's 403, 507, 508, 509, 613.

c. Plot No. 613 was sold by Teresa Wanjiku without the consent and knowledge of the Petitioners.

d. The remaining 4 plots were shared out by the Petitioners willingly as follows:

1. Plot No 403 – Daniel Njehia Kamiri

2. Plot No 507 – donated to Teresia Wanjiku

3. Plot No 508 – Francis Karanja Kamiri



4. Plot No 509 – donated to Silvia Wanjiru
- e. Teresia Wanjiku refused the offer of No. 507.
- f. There is therefore no plot available for distribution to Teresia Wanjiku

Resolution

4. This Court has considered the history of this matter, the ruling delivered on 29th February 2025 and the Petitioners' proposed mode of distribution dated 3rd July 2025. The issue before the Court remains the determination of the proper mode of distribution of the unregistered properties situated at Racecourse and Langas which form part of the intestate estate of the late Peter Kameri Kereme. In its earlier ruling, this Court held that although the Applicants had participated in the initial consented mode of distribution, they were improperly excluded from the subsequent amendment made upon the discovery of additional properties. The Court therefore directed the Petitioners to provide full particulars regarding the status and dealings relating to the said properties before distribution could proceed.

5. The duties and obligations of the administrators is provided clearly in section 83 of the [Law of Succession Act](#) which provides as follows: -

83. Duties of personal representatives

Personal representatives shall have the following duties -

- a. to provide and pay, out of the estate of the deceased, the expenses of a reasonable funeral for him;
- b. to get in all free property of the deceased, including debts owing to him and moneys payable to his personal representatives by reason of his death;
- c. to pay, out of the estate of the deceased, all expenses of obtaining their grant of representation, and all other reasonable expenses of administration (including estate duty, if any);
- d. to ascertain and pay, out of the estate of the deceased, all his debts;
- e. within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
- f. subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;
- g. within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration.
- h. to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;



- i. to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.
6. I wish to reiterate the case of *In re Estate of Julius Mimano (Deceased)* [2019] eKLR which this Court had made reference to in its ruling dated 29th February 2025 which analyzed the unique position in law held by the personal representative of a deceased person by stating as follows:

“...personal representatives administer estates on the strength of legal instruments made to them by the probate court. The vesting of the estate of the deceased on the personal representatives by virtue of section 79 of the Act, flows from the instrumentality of the grant of representation. Upon representation being made, the grant holder then becomes entitled to exercise the statutory powers conferred upon personal representatives by section 82 of the Act and incurs the duties imposed on them by section 83 of the Act. Additional powers flow from and duties are imposed by other statutes, such as the *Trustee Act*. Under section 82 of the Act, there are powers to enforce and defend causes of action on behalf of the estate, to sell or convert estate assets, to assent to vesting of bequests and legacies on the beneficiaries, among others. Acts done or actions taken on behalf of the estate or for the benefit of the estate would have to be accounted for. In other words, the personal representatives are bound to account for every action they take on behalf of the estate, for they exercise the powers on delegation.”
7. In paragraph 15(a) of the ruling dated 29th February 2025, this Court directed the Petitioners to file an affidavit within thirty (30) days providing: the current status of the unregistered parcels at Racecourse and Langas, full particulars of any sale transactions, including dates, purchasers, and consideration and supporting documentary evidence such as sale agreements, proof of payment and transfer documents. I take note that the Petitioners’ proposed mode of distribution dated 3rd July 2025 does not comply with the above mandatory requirements. While the Petitioners state that the estate was distributed fully in 2003 and proceed to list divisions and alleged transactions, they have not furnished:
 - a. A comprehensive affidavit addressing the current status of the properties;
 - b. Evidence of sale (if any), such as sale agreements, proof of consideration, or transfer instruments;
 - c. Documentation supporting the claims concerning the alleged sale of Plot No. 613 or the subsequent allocations.
8. In a nutshell, no evidence has been placed on record to satisfy the directives issued by this Court. Mere assertions in a proposed mode of distribution cannot substitute for the evidentiary compliance expressly required of them. Consequently, this Court finds and holds that the Petitioners have failed to comply with paragraph 15(a) of the ruling delivered on 29th February 2025. Without the information and documents required, the Court is unable to verify the true status of the unregistered Racecourse and Langas plots or determine whether any dealings were lawful, consensual or in the best interests of all beneficiaries.
9. I wish to reiterate and state that the law is very clear that a party whom a court order is directed to by a competent court has no choice other than to first comply with the order even if to the party the order is irregular or before taking any step, if not sure of the import of the court order, the party is supposed to rush back to court and explain its difficulties in complying with the particular court order but not to



disregard the order. In *Trusted Society of Human Rights Alliance Vs Cabinet Secretary for Devolution and Planning & 3 others* [2017] eKLR the court held as follows:

“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. A Court order is binding on the party against whom it is addressed and until set aside remains valid and is to be complied with.”

10. In the circumstances and pursuant to paragraph 15(b) of the ruling dated 29th February 2025 which relates to this intestate estate, the Court hereby invokes and grants the alternative order as follows:
 - a. That the Director of Land Adjudication / Land Registrar / Community Land Registrar as the case may be is hereby directed to prepare and submit to this Court within thirty (30) days an executive summary detailing: the current registration status of the unregistered properties at Racecourse and Langas; the current ownership of the said properties and any existing encumbrances or transactions relating to the said properties.
 - b. The matter shall be mentioned on 18th December 2025 for a Status Conference.
 - c. There shall be no orders as to the costs.
11. Orders accordingly.

DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 2ND DECEMBER 2025

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R. NYAKUNDI

JUDGE

