

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI
SUCCESSION CAUSE NO. E008 OF 2021

**IN THE MATTER OF THE ESTATE OF THE LATE ELIUD
WANJOHI MAINA - (DECEASED)**

ELIUD WANJOHI MAINA.....ADMINISTRATOR/1ST
APPLICANT

VERA NJAMBI MAINA.....1ST BENEFICIARY/2ND
APPLICANT

VERSUS

EMMA WAITHERA MAINA.....2ND
BENEFICIARY

JUDY WANJIRU WAMAE.....3RD
BENEFICIARY

RULING

1. The Applicant moved this court by way of Notice of motion dated 13th June 2025 where he sought the following orders;

- (i) This Honourable court be pleased to issue orders allowing the Administrator to amend the certificate

of confirmation of grant issued on 26th April 2022 to incorporate and provide for the administration and distribution of newly discovered properties forming part of the estate of Eliud Wanjohi Maina (Deceased) to the four Beneficiaries. Ernest Wanjohi Maina, Emma Waithera Maina, Vera Njambi Maina and Judy Wanjiru Wamae in equal shares.

- (ii) The Schedule of Distribution for the Estate be amended accordingly and the newly identified assets as listed in the proposed Amended Schedule of Distribution (copy attached in paragraph 7 of the Supporting Affidavit) be included for equal distribution among the said four Beneficiaries.
- (iii) The Court grant such further or other orders as may be just in the interest of justice and the proper administration of the Estate.

2. The application is supported by a Supporting Affidavit of the Administrator/1st Applicant and is based on the following grounds:-

- 1) That he is a male adult of sound mind, well seized of the matters in issue before this Honourable Court and therefore competent to swear this Affidavit.
- 2) That he is the duly appointed Administrator of the Estate of Eliud Wanjohi Maina (his late father) pursuant to the issuance of the Letter of Administration and Certificate of Confirmation of Grant on the 26th November 2021 and 26th April 2022 respectively That the Letter of Administration and Certificate of Confirmation of Grant for the Estate of the late Eliud Wanjohi Maina were issued to Ernest Wanjohi Maina on the 26th November 2021 and 26th April 2022 respectively.
- 3) That pursuant to the Confirmation of Grant, the Applicant as one of the beneficiaries, was allocated a multi-residential development situated within the Nanyuki Municipality. At the time he was under the bona fide belief that the said development wholly stood on property known as L.R. No. 4760/2. However, during the course of undertaking substantial renovation works and extensive alterations to the aforesaid premises, it came to his

attention that the development in question is in fact erected upon two distinct and separate parcels of land, namely L.R. No. 4760/2 and L.R. No. 2787/1473. The existence of the latter property came to my knowledge following a review of the late father's title documents.

4) That further to the foregoing discovery, and upon comprehensive perusal and review of my late father's records, I have identified additional and previously undisclosed assets which were inadvertently omitted from the original succession proceedings as well as from the confirmed schedule of distribution. These comprise sixteen (16) separate parcels of land described as follows;-

NOS.	LAND REFERENCE NUMBERS	PROPERTY LOCATION
1.	L.R. No. 2872/91	Within Nanyuki Municipality.
2.	L.R. No. 2872/92	Within Nanyuki Municipality.
	L.R. No. 2872/94	Within Nanyuki Municipality.
	L.R. No. 2872/96	Within Nanyuki Municipality.
	L.R. No. 2872/100	Within Nanyuki Municipality.
	L.R. No. 2872/99	Within Nanyuki Municipality.
	L.R. No. 2872/105	Within Nanyuki Municipality.
	L.R. No. 2872/106	Within Nanyuki Municipality.
	L.R. No. 2872/30	Within Nanyuki Municipality.
	L.R. No. 2872/49	Within Nanyuki Municipality.
	L.R. No. 2872/50	Within Nanyuki Municipality.

	L.R. No. 2872/39	Within Nanyuki Municipality.
	L.R. No. 2872/19/4	Commercial and within Nanyuki Municipality.
	L.R. No. 20055/11	Commercial and within Nanyuki Municipality.
	L.R. No. 20055/12	Commercial and within Nanyuki Municipality.
	L.R. No. 2872/19/3	Commercial and within Nanyuki Municipality.

- 8) That it is therefore imperative for the due, proper and lawful administration of the entirety of the Deceased's Estate, that all the said assets - including those newly discovered be duly subjected to the authority of this Honourable court for purposes of administration and eventual distribution in accordance with the law.
- 9) That all the four beneficiaries of the Estate are lawfully entitled to a fair and equitable share in the aforementioned newly discovered properties.
- 10) That unless this honourable court urgently intervenes and issues appropriate directions on the inclusion and protection of the newly discovered properties, there exists a real and imminent risk of intermeddling, unlawful dealing, and/or unauthorized disposal of the said

properties by third parties, thereby occasioning irreparable loss, prejudice and dissipation of the Estate to the detriment of the rightful beneficiaries.

11) That this application is presented in utmost good faith and in the overriding interests of justice, fairness, and equity so as to secure the lawful rights of all the beneficiaries and to ensure the Estate is administered in full.

3. I have had occasion to consider the application, the grounds in support and annexures thereto. There is evidence that properties forming part of the free estate of the deceased at the time of his death have been identified.

4. Such properties cannot be dealt with otherwise other than through inclusion as part of the estate and to be distributed to the rightful beneficiaries.

5. The grant in this matter was issued and confirmed. To effectuate the inclusion of the properties aforesaid, it is necessary that the grant be amended and distribution done as per the agreed mode of distribution.

6. The application dated 13th June 2025 therefore has merit and is allowed. I make the following orders;

1. This Honourable court be pleased to issue orders allowing the Administrator to amend the certificate of confirmation of grant issued on 26th April 2022 to incorporate and provide for the administration and distribution of newly discovered properties forming part of the estate of Eliud Wanjohi Maina (Deceased) to the four Beneficiaries. Ernest Wanjohi Maina, Emma Waithera Maina, Vera Njambi Maina and Judy Wanjiru Wamae in equal shares.
2. The Schedule of Distribution for the Estate be amended accordingly and the newly identified assets as listed in the proposed Amended Schedule of Distribution be included for equal distribution among the said four Beneficiaries.
3. Costs be borne by the estate.

**Dated signed and delivered virtually this 3rd day of
December 2025**

**A.K. NDUNG'U
JUDGE**