



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
SUCCESSION CAUSE NO. E003 OF 2020

**IN THE MATTER OF THE ESTATE OF STANLEY LUMUMBA
BARUNGU THIKANYI (DECEASED)**

ELIZABETH NCABANI M'IKIRIMA.....1ST

PETITIONER

ROSEMARY THIKANYI.....2ND

PETITIONER

VERSUS

LUCY INOKOBIA THIKANYI.....1ST

OBJECTOR

HELLEN KANINI THIKANYI.....2ND

OBJECTOR

JOYCE KAULA THIKANYI.....3RD OBJECTOR

PENINA KALOKI THIKANYI.....4TH

OBJECTOR

GLORY KAJUJU THIKANYI.....5TH OBJECTOR

JUDGMENT

1. For determination is the summons for confirmation of grant dated 14/10/2024 under section 71 (1) of the Law of Succession Act, seeking that:

1. The honourable court be pleased to confirm the temporary grant of letters of administration issued at Meru to the Petitioners ELIZABETH NCABANI M'IKIRIMA in terms of paragraph 3 of the supporting affidavit.

2. Costs be in the cause.

2. The application is supported by an affidavit sworn by the 1st petitioner on even date. She has at paragraph 3 thereof, proposed how **L.R Nos. Njia/Burieruri/3291, 3292, 4132, 4134, 4133, 4135, 4136, 4161, 5508, 5509 and 5510, L.R Nos. Njia/Cia-Mwendwa/3885, 3886, 3887, 3888, 202, 203 and 2223, L.R Nos. Kangeta/Kangeta/2486 and L.R No. Muringene Market Plot No. 23 "B", Muringene Market Plot No. 23 "A" and plot No. 16 "A" Kandubai (hereinafter referred to as the estate properties)** ought to be distributed.

3. The 2nd petitioner herein, a daughter of the deceased, filed summons for confirmation of grant dated 12/11/2024 in opposition to the proposed mode of distribution. According to her, the deceased had 3 wives, namely Lucy Inokobia, Joyce Kaula Thikanyi and Elizabeth Ncabani M'Ikirima, and the estate properties ought to be distributed amongst the 3 houses as proposed at paragraph 5 thereof. She swore a further affidavit on 30/7/2025 in support of her proposal.
4. The 1st petitioner swore an affidavit on 30/5/2023, contending that she was the legal wife of the deceased, while the 1st and 3rd objectors were his former wives. She swore another affidavit on 30/7/2025 in support of her proposal.
5. Those sentiments were echoed by Susan Mugambi, Mercy Thikanyi, Richard Ntonja Thikanyi and Daniel Ntongai Thikanyi, a sister in law, a daughter and sons to the deceased, respectively, in their affidavits sworn 30/5/2023.
6. The 2nd petitioner swore an affidavit on 29/3/2023 in support of her proposed mode of distribution.
7. The application was canvassed by way of written submissions, which were only filed by counsel for the petitioners.

Analysis and Determination

8. The issue for determination is how the estate properties ought to be distributed.
9. The deceased herein died intestate on 9/4/2020, survived by 3 wives namely Lucy Inokobia, Joyce Kaula Thikanyi and Elizabeth Ncabani Mikirima and 8 children namely Rosemary Thikanyi, Hellen Kanini Thikanyi, Penina Kaloki Thikanyi (deceased but survived by Preminus Karani, Mary Kerubo and Glennah Moraaminor), Glory Kajuju Thikanyi, Mercy Kendi Thikanyi, Eric Mutwiri, Richard Ntonja Thikanyi and Daniel Ntongai Thikanyi.
10. The provisions of Section 40 of the Law of Succession Act are succinctly clear that where the deceased was a polygamist, the distribution of his estate ought to be done in accordance with the children in each house, with the surviving spouses being treated as additional units.
11. The proposal by the 1st petitioner is manifestly unjust and skewed towards disinheriting the 1st and 2nd houses. Indeed, the 1st petitioner's blatant failure to acknowledge the existence of the other wives of the deceased, coupled with her insistence

that she was the only lawful wife of the deceased, is preposterous and untenable.

12. I find that the proposal by the 2nd petitioner at paragraph 5 of her summons for confirmation of grant is equally unfair and inequitable, as there is no justification why the 1st house is getting a disproportionate share of the estate properties to the detriment of the other 2 houses.

13. The 1st petitioner's contention that the deceased had divorced the 1st and 2nd wives is unfounded and thus unsustainable.

14. The upshot from the foregoing analysis is that the grant issued to Elizabeth Chabani M'ikirima and Rosemary Thikanyi, the petitioners herein vide the consent dated 6/2/2024, is hereby confirmed in the following terms:

1. The estate properties shall be distributed equally amongst the 11 beneficiaries of the deceased.

15. The court is alive to the fact that land parcels are not of equal value, owing to variations in size, location, and other attendant attributes.

16. In order to attain equal and fair distribution, the parties are urged to agree on a sharing formula that will be filed in court

as a basis in which the court will issue a confirmed Grant.
Incase of a disagreement on this, each house to file its own
proposed formula.

17.Mention 9/7/2026.

**DATED AND DELIVERED AT MERU THIS 17TH DAY OF
DECEMBER, 2025**

S.M. GITHINJI

JUDGE

APPEARANCES:-

Miss Gichohi for the 2nd Petitioner.

Mr. Kiogora is for the first petitioner (absent).