

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE P&A NO. E058 OF 2020
IN THE MATTER OF THE ESTATE OF THE LATE JOSEPH ERICK
OWINO alias JOSEPH ERICK OWINO NYABURI - (DECEASED)

MARY ANYANGO ONYANGO 1ST
ADMINISTRATOR

AND

CHRISTINE OWINO 2ND
ADMINISTRATOR/APPLICANT

EMMANUEL OTIENO OWINO 3RD
ADMINISTRATOR/RESPONDENT

MARY NABUSU OWINO 4TH
ADMINISTRATOR

Coram: Before Justice R. Nyakundi
M/s Morgan Omusundi Law firm
M/s Gicheru & Co. Advocates
M/s Nabasenge & Co. Advocates

RULING

- 1.** What is pending before this court for determination is an application dated 3rd November, 2025 expressed under the provisions of section 1A, 1B and section 80 of the Civil Procedure Act, Order 40 Rule 1 and Order 45 Rule 1 and 2 and Order 51 Rule 1 and 4 of the Civil Procedure Rules. The applicant seeks orders as follows:
 - a. Spent.*
 - b. That this Honourable Court be pleased to review and/or set aside the ruling delivered on 23rd October, 2025, which was based on the letter dated 10th July, 2025 from the advocates of the 3rd administrator indicating that Mr. Maxwell Otieno*

Owino had successfully transferred their shares in Eldoret Municipality Block 13/74 to Dr. Florentius Kipchirchir Koech.

- c. That this Honourable Court be pleased to issue an order of injunction restraining the administrators, beneficiaries, their agents or assigns from selling, transferring, charging, or in any way dealing with the property/parcel known as ELDORET MUNICIPALITY BLOCK 13/74, pending the hearing and determination of this application and the appeal herein.*
- d. That this Honourable Court be pleased to direct that all the dealings in respect of the said property/parcel remain suspended, noting that the applicant has already initiated the process of placing a caution over the said property to safeguard the estate.*
- e. That this Honourable Court be pleased to award costs in this application to the applicant.*

2. The application is anchored on grounds:

- a. That this Honourable Court delivered a Ruling on 23rd October, 2025, adopting the letter dated 10th July, 2025 from the 3rd Administrator's advocates, indicating that pursuant to the Ruling delivered on 14th March, 2022, the administrators of the estate i.e. Mr. Maxwell Otieno Owino and Mr. Emmanuel Otieno Owino had successfully transferred their shares in ELDORET MUNICIPALITY BLOCK 13/74 to Dr. Florentius Kipchirchir Koech.
- b. That the said letter was written after the 3rd administrator, who was initially represented by our firm, changed advocates without notice to the appellant and caused the said letter to be filed and relied upon by the court.
- c. That the applicant was never served with the said letter and was therefore denied an opportunity to be heard prior to the delivery of the Ruling.
- d. That new and compelling evidence has since come to light, showing that the facts relied upon which led to the delivery of the Ruling was based on incomplete information and non-disclosure of material facts.

- e. That the succession cause remains pending and there is a notice of appeal that has been filed on record challenging the ruling confirmation of Grant.
- f. That the shares of the said parcel have not been determined or allocated, and one of the beneficiaries namely Mr. Douglas Owino was left out of the property in question.
- g. That the applicant has already commenced the process of placing a caution over the said parcel to preserve the property from being disposed of.
- h. That unless this Honourable court intervenes urgently, the property risks being alienated, rendering the pending appeal and this application nugatory and occasioning irreparable prejudice to the beneficiaries.

3. In response to the application, Emmanuel Otieno Owino filed a replying affidavit in which he deposed as follows:

- a. That I am the 3rd Administrator herein with knowledge of all material facts thus competent to swear this affidavit.
- b. That the instant application is frivolous, vexatious and an abuse of the court process.
- c. That I am reliably informed by my advocate on record that the instant application seeks to have the statutory mandate of the administrators curtailed without any legal jurisdiction.
- d. That the instant application is a non-starter.
- e. That the applicant has fallen short of adducing cogent evidence to warrant the orders sought.
- f. That the applicant has failed to establish the new evidence she alleges this Honourable court did not consider while pronouncing itself.
- g. That there exists no other evidence to warrant the review of the orders made on 23rd October, 2025.
- h. That having been duly apportioned my share of ELDORET MUNICIPALITY BLOCK 13/74 Maxwell Otieno Owino and I jointly sold our respective entitlement of the subject parcel of land to Dr. Florentius Kipchirchir Koech.

- i.* That the portion of the suit parcel Maxwell and I are to benefit from is known and that is the exact portion we jointly sold to Dr. Koech.
- j.* That I am advised by my advocate on record which advice I believe to be sound that upon the confirmation of grant each beneficiary has all the rights and privileges to transact and deal with their respective bequest as they please.
- k.* That I am an adult of sound mind capable of managing my affairs without external influence.
- l.* That I am aware that Maxwell is my elder brother capable of managing his affairs and inheritance without external control.
- m.* That the purpose and intention of succession proceedings is to trickle down of ownership of the deceased properties to their beneficiaries/heirs.
- n.* That it is beyond appalling for us to subject ourselves to the succession process only for one beneficiary to propound after conclusion of the entire process that all the assets of the deceased should continue to be registered in the name the deceased.
- o.* That I know for a fact that Maxell and I have an agreement with Dr. Koech which we are legally bound to honour.
- p.* That the applicant is an enemy of progress as she does not want the other beneficiaries of the estate of Joseph Erick Owino to make meaningful use of their inheritance and progress in life.
- q.* That Douglas Owino is our eldest brother and an adult.
- r.* That Douglas Owino is of sound mind and faculty thus able to present his grievance(s) if any exist.
- s.* That the applicant has not been given any power of attorney by Douglas to speak on behalf of Douglas if at all.
- t.* That I know for a fact that Douglas is comfortable with how the estate has been distributed by the order of 10th March, 2022.

- u.* That the applicant Christine Owino has been a thorn in the flesh as she is opposed to the implementation of the confirmed grant without any lawful justification.
- v.* That I was forced to appoint my current advocate as my former advocate failed to sufficiently represent my interests as instructed.
- w.* That the orders of 10th March, 2022 have not been challenged in any way be it review or appeal thus they remain lawful orders that must be obeyed regardless of one personal opinion.
- x.* That there is no automatic right of appeal in succession matters.
- y.* That no leave has been granted by this Honourable Court or the Court of Appeal to subject the ruling on confirmation of grant dated 10th March, 2022 and the resultant certificate of confirmation of grant to challenge.
- z.* That as an appointed administrator Emmanuel is expected to update this court within a period of six months after confirmation of grant on the progress made as to the distribution of the estate in the discharge of his mandate as an administrator.
- aa.* That upon successfully disposing my share in ELDORET MUNICIPALITY BLOCK 13/74 alongside Emmanuel I approached this court and declared the conveyance of our respective shares.
- bb.* That Emmanuel and I were forced to team up so that our joint inheritance in ELDORET MUNICIPALITY BLOCK 13/74 would form adequate acreage for registration upon subdivision as per the County by-laws.
- cc.* That there is no appeal pending before the Court of Appeal challenging the Certificate of Confirmation of Grant given on 14th March, 2022.
- dd.* That it follows therefore that no interim orders can be granted pegged on the determination of a non-existent appeal.

- ee.* That I believe injunctive orders are not given in a vacuum and more so without any legal foundation.
- ff.* That the issuance of any injunctive orders would fly in the face of the purpose of these succession proceedings and the purpose of appointing administrators if only the administrators appointed would be enjoined from performing their statutory mandate.
- gg.* That I am reliably informed that this Honourable court did not belabour to appoint administrators only to curtail the performance of their duties.
- hh.* That the applicant is hell bent on stopping the implementation of the confirmed grant is why she has opted to pursue the registration of a caution over ELDORET MUNICIPALITY BLOCK 13/74.
- ii.* That no registration of the alluded to caution or any encumbrance of any kind preferred by the applicant should be countenanced as there is only one way of challenging a lawful court order and lodging a caution is not one of them.
- jj.* That I urge this Honourable Court to send a stern warning to the applicant and her ilk that disobedience of court orders is punishable by way of inter alia contempt proceedings.
- kk.* That I am reminded by my advocate that the draft Memorandum of Appeal marked annexure CO-3 does not challenge the distribution of Eldoret Municipality Block 13/74 at all.
- ll.* That the prayer seeking to restrain the administrators from discharging their mandate is moot, res-judicata and a non-starter having been conclusively addressed in the ruling delivered on 18th November, 2022.
- mm.* That the applicant wants to restrict my use of the suit property ELDORET MUNICIPALITY BLOCK 13/74 yet she is enjoying her inheritance of the same property as she resides in the residential premises constructed on the subject parcel of land.

- nn.* That the applicant is a civil servant with a fixed and regular income and she is out to ensure the other beneficiaries of the estate do not get to distribution of rental income as she always makes excuses whenever the time comes to distribution of rental income thus negatively prejudicing the other beneficiaries of the estate.
- oo.* That no new evidence of whichever nature has been furnished to warrant the review of the orders made on 23rd October, 2025.
- pp.* That I urge this court to direct the applicant to be cooperative with the other beneficiaries in the discharge of the administrative duties lest she be stripped the administratorship.
4. The applicant filed a further affidavit in which she made the following averments:
- a. That I have read and understood the issues raised by the 3rd Administrator/Respondent to the effect that every beneficiary has the right and privilege to deal with their respective bequest, a position I do not dispute. However, I verily depose that such right only crystallizes after the administrators have lawfully executed the Certificate of Confirmation of Grant through proper transmission, identification and transfer as required by the law.
 - b. That I am aware that the 3rd Administrator/Respondent initially caused a letter to be written to my advocates alleging that I was frustrating and/or delaying the distribution of **ELDORET MUNICIPALITY BLOCK 13/74**, an allegation which to me was misleading and unfounded as it failed to appreciate my statutory duty as a co-administrator of the estate.
 - c. That from the outset, I have never opposed the distribution of the estate and the specific parcel in particular and in response to the said letter I wrote a letter through my advocates clarifying that I had no objection whatsoever to the distribution of the said property, provided that the same is carried out through the proper legal procedure including the

identification, ascertainment and lawful transmission of each beneficiary's specific share.

- d. That it is my understanding that until the estate property has been fully identified, apportioned, and transmitted in accordance with the confirmed grant, no beneficiary can lawfully dispose of, alienate or deal with any portion thereof without offending the law and amounting to intermeddling with the estate.
- e. That indeed I am aware that whereas succession proceedings are intended to devolve ownership of a deceased's estate to the beneficiaries, such devolution must be orderly, transparent and lawful. A beneficiary/Beneficiaries cannot dispose of property whose their specific share has neither been identifies nor transmitted.
- f. That although the confirmed grant lists all the beneficiaries of **ELDORET MUNICIPALITY BLOCK 13/74**, the shares therein have not been identified, surveyed, allocated and transmitted. Consequently, no beneficiary can purport to sell or transfer an undefined share without prejudice to the rights of other beneficiaries.
- g. That I am aware that the Respondent alleges that one beneficiary i.e. Mr. Douglas Owino is comfortable with the manner in which the estate has been distributed. I categorically deny this allegation as mere conjecture, unsupported by any affidavit, consent or documentary evidence from the said beneficiary.
- h. That I am aware that the 3rd Administrator/Respondent asserts that he is under a statutory duty to account to this Honourable Court on the progress of distribution within six (6) months. However, he has failed to update the court on the status of the other estate properties and now instead he seeks to portray the unilateral disposal of his purported share in **ELDORET MUNICIPALITY BLOCK 13/74** as an update to the court.

- i.* That this act of disposing the estate property without joint consultation, identification does not amount to an account within the meaning of the law, nor does it satisfy the administrators' statutory duty to formally and comprehensively account to court on the administration of all estate properties.
- j.* That I know for a fact that as administrators we are legally bound to act jointly and in the best interest of the estate. The Respondent acted unilaterally and without my knowledge or consent by engaging advocates and seeking orders based on correspondence to which I was never served, thereby undermining the principle of joint administration.
- k.* That the said conduct resulted this Honourable Court being addressed on the basis of incomplete and non-disclosed material facts, and denied me the opportunity to be heard. Consequently, the orders obtained are amenable to review as they were made in circumstances that disclose sufficient cause.
- l.* That Indeed I reside on the said parcel together with other beneficiaries and the purported disposal of unidentified shares therein poses a real risk of displacement, conflict and irreparable prejudice to me and other beneficiaries.
- m.* That I reiterate that I am not an enemy of progress nor an obstacle to the administration of the estate. I am merely desirous of faithfully discharging my statutory duties as an administrator and avoiding any act that may amount to intermeddling or expose the estate to illegality.

Analysis and determination

- 5.** I have carefully considered the application, the replying affidavit sworn by Emmanuel Otieno Owino, and the further affidavit filed by the applicant Christine Owino in response. I have also had the benefit of reviewing the written submissions filed by counsel appearing for the parties herein.

6. To properly appreciate the issues before me, it is necessary to place this application in its proper context. The deceased, Joseph Erick Owino alias Joseph Erick Owino Nyaburi, passed away on 11th June, 2018. Four administrators were appointed to administer his estate: Mary Anyango Onyango, Christine Owino, Emmanuel Otieno Owino, and Mary Nabusu Owino. The deceased left behind two houses. The first house comprising Eva Kola Owino (widow) and her children Christine Owino, Castro Atieno, Rudolf Nyaburi Owino, Maxwell Otieno Owino, and Emmanuel Otieno Owino; and the second house comprising Mary Anyango Onyango (widow) and her children. Additionally, there were three children born to the deceased out of wedlock: Douglas Owino, Moses Owino Nyaburi, and Mary Nabusu Owino.
7. On 14th March, 2022, this court delivered a comprehensive ruling on the distribution of the estate after considering submissions from the parties. In that ruling, this court made specific orders regarding the distribution of estate properties, including that Eldoret Municipality Block 13/74 be distributed to the first house and be shared equally to the beneficiaries, and that Eldoret Municipality Block 13/305 be wholly shared by the second house in equal shares with the minors' shares held in trust by Mary Onyango Onyango until they attain the age of maturity.
8. On 10th July, 2025, M/s Gicheru & Co. Advocates, the new advocates for Emmanuel Otieno Owino, wrote a letter to this court stating that pursuant to the court's ruling dated 14th March, 2022, the administrators Maxwell Otieno Owino and Emmanuel Otieno Owino had successfully transferred their shares in Eldoret Municipality Block 13/74 to Dr. Florentius Kipchirchir Koech. This letter was supported by signatories dated 27th June, 2025 from Maxwell and Emmanuel confirming the transfer of their shares. On 23rd October, 2025, this court adopted that letter and issued an order confirming that the petitioners had complied with the share allocation and that the transfer to Dr. Koech had been successfully completed.
9. It is this ruling of 23rd October, 2025 that the applicant now seeks to have reviewed. The applicant's case, in essence, is that she was never served with the letter dated 10th July, 2025, and was therefore denied

an opportunity to be heard before the ruling was delivered. She further contends that new and compelling evidence has come to light showing that the ruling was based on incomplete information and non-disclosure of material facts. Central to her argument is the position that the shares in Eldoret Municipality Block 13/74 have not been identified, surveyed, allocated and transmitted in accordance with law, and therefore no beneficiary could lawfully dispose of any portion thereof. She maintains that the disposal of undefined shares amounts to intermeddling with the estate and prejudices the rights of other beneficiaries, particularly Douglas Owino who she alleges was left out of the distribution of this specific property.

- 10.** The respondent's position is equally firm. He maintains that the application is frivolous and vexatious, and that the applicant has failed to establish any new evidence warranting review. He asserts that he and Maxwell were duly apportioned their shares in the ruling of 14th March, 2022, that they sold only their portion to Dr. Koech, and that upon confirmation of grant each beneficiary has the right to deal with their respective bequest as they please. He further contends that the applicant is obstructing the implementation of the confirmed grant without lawful justification, and that the orders of 14th March, 2022 remain unchallenged and must be obeyed.
- 11.** The provisions of review can be found in Section 80 of the Civil Procedure Act, and Order 45 of the Civil Procedure Rules 2010. Section 80 of the Civil Procedure Act states as follows;

“80. Any person who considers himself aggrieved—

(a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or

(b) by a decree or order from which no appeal is allowed by this Act,

may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit.”

12. Order 45 of the Civil Procedure Rules also states thus; -

“45. 1(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred, or

(b) by a decree or order from which no appeal is hereby allowed

And who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reasons, desires to obtain a review of the decree or order may apply for a review of judgment to the court which pass the decree or made the order without unreasonable delay.”

13. Looking at the jurisdictional framework governing this review application, the Court must consider whether the applicants have met the threshold requirements established under both statutory and constitutional provisions.

14. The applicants have grounded their application on section 80 of the Civil Procedure Act and Order 45 of the Civil Procedure Rules 2010. While these provisions set out specific conditions that must be fulfilled, the Court's approach must be broader, guided by the constitutional imperative under Article 159 of the Constitution to achieve substantive justice, as well as the overriding objective enshrined in sections 1A and 1B of the Civil Procedure Act.

15. The applicant must demonstrate to the court that there has been discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed. Secondly, the applicant must demonstrate to the court that there has some mistake or error apparent on the face of the record. The third ground for review is worded broadly; an application for review can be made for any other sufficient reason.

16. Discussing the scope of Review, the Supreme Court of India in the case of **Ajit Kumar Rath vs State of Orisa & Others**, 9 Supreme Court Cases 596 at Page 608. had this to say:

“the power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for stabling it. It may be pointed out that the expression “any other sufficient reason” means a reason sufficiently analogous to those specified in the rule.”

17. In **Paul Mwaniki vs National Hospital Insurance Fund Board of Management [2020] eKLR** the court stated:

“A review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should not require an elaborate argument to be established. It will not be a sufficient ground for review that another Judge could have taken a different view of the matter. Nor can it be a ground for review that the court proceeded on an incorrect exposition of the law and

reached an erroneous conclusion of law. Misconstruing a statute or other provisions of law cannot be a ground for review.”

The court went on to say: -

The term ‘mistake or error apparent’ by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for purposes of Order 45 Rule 1 of the Civil Procedure Rules and Section 80 of the Act. Put it differently an order, decision, or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision. The wisdom flowing from jurisprudence on this subject is that no error can be said to be apparent on the face of the record if it is not manifest or self-evident and requires an examination or argument to establish it.”

- 18.** The applicant alleges that she was not served with the letter dated 10th July, 2025 from M/s Gicheru & Co. Advocates. This in my view is fundamentally at cross purpose with the rules of natural justice. The respondent has not denied this allegation in his replying affidavit. Indeed, the respondent himself admits in his replying affidavit that he was forced to appoint new advocates because his former advocate failed to sufficiently represent his interests. The record shows that Emmanuel was initially represented by Morgan Omusundi Law Firm, the same firm that represents the applicant Christine Owino, and he changed advocates without notice to his co-administrator.
- 19.** In succession proceedings where multiple administrators have been appointed, the duty to act jointly is not merely procedural but substantive. Administrators are trustees of the estate and must act in concert, particularly on matters of significant importance such as the disposal of estate property. The unilateral engagement of new

advocates and the subsequent filing of correspondence without service on a co-administrator undermines this fundamental principle. When this court rendered its ruling on 23rd October, 2025, it did so based on information contained in the letter of 10th July, 2025 and the annexed signatories. If, as the applicant alleges and the respondent has not controverted, she was never served with this letter, then she was denied the opportunity to be heard on a matter directly affecting her duties and responsibilities as a co-administrator.

- 20.** The right to be heard is a constitutional imperative enshrined in Article 50 of the Constitution. In any proceedings, parties are entitled to notice and an opportunity to respond before orders are made affecting their interests. This is not a case where the applicant is seeking a fresh hearing or asking this court to reconsider an erroneous view. Rather, she is pointing to a fundamental procedural irregularity that goes to the validity of the process itself.
- 21.** On the question of whether new and important evidence has come to light, the applicant contends that the shares in Eldoret Municipality Block 13/74 have not been identified, surveyed, allocated and transmitted. She argues that this fact was not disclosed to the court when it delivered the ruling of 23rd October, 2025, and that had the court been aware of this, it would not have adopted the position that Emmanuel and Maxwell had successfully transferred their shares. The respondent counters this by stating that he and Maxwell know the portion they are to benefit from and that is the exact portion they sold to Dr. Koech. However, the respondent has not produced any survey plan, deed plan, or any other documentary evidence showing the specific identification and demarcation of his purported share.
- 22.** This brings me to a fundamental question of law in succession matters. Can a beneficiary dispose of their share in estate property before that share has been formally identified, surveyed, and transmitted to them in accordance with the law? The answer, in my considered view, must be in the negative. The confirmation of a grant of letters of administration does not automatically vest individual shares in beneficiaries. It vests the estate property in the administrators as trustees who hold it for the benefit of the beneficiaries. The

administrators must then proceed to identify each beneficiary's share, have it surveyed and demarcated where necessary, and transmit it through the proper legal process. Only upon transmission does a beneficiary acquire the legal capacity to deal with their specific portion.

- 23.** The respondent's argument that upon confirmation of grant each beneficiary has the right to transact with their bequest is correct in principle but premature in application. Yes, beneficiaries ultimately have the right to deal with their inheritance, but that right crystallizes only after proper transmission. To hold otherwise would be to permit beneficiaries to dispose of undefined and unidentified portions, creating chaos in estate administration and exposing innocent purchasers to risk.
- 24.** The respondent has taken issue that there is no appeal pending before the Court of Appeal challenging the Certificate of Confirmation of Grant dated 14th March, 2022, and therefore no basis for granting injunctive relief. Upon examining the record carefully, I find merit in this objection. The applicant has exhibited a draft memorandum of appeal, but there is no evidence that this appeal has been filed, served, or assigned an appeal number by the Court of Appeal. More critically, there is no evidence that the applicant has sought or obtained leave to appeal against the ruling confirming the grant, as required by law. The absence of any such leave application or grant of leave means that the ruling of 14th March, 2022 stands as a valid and enforceable order of this court.
- 25.** However, this does not mean that the administrators are at liberty to proceed in the manner they have attempted. The issue before me is not whether the ruling of 14th March, 2022 should be set aside, but rather whether the administrators have properly implemented that ruling. The ruling directed that Eldoret Municipality Block 13/74 be distributed to the first house and shared equally among the beneficiaries. It did not authorize any individual administrator to unilaterally sell undefined and unidentified portions of the property without first undertaking the necessary steps of identification, survey, allocation and transmission. The fundamental flaw in the respondent's approach is the assumption that confirmation of grant automatically

entitles beneficiaries to deal with their shares without completing the intermediate steps required by law.

- 26.** I find that the applicant has demonstrated a prima facie case that the respondent and Maxwell have acted irregularly. The letter dated 10th July, 2025 from M/s Gicheru & Co. Advocates states that the administrators successfully transferred their shares to Dr. Koech. However, the evidence shows that no survey has been conducted, no specific portions have been identified or demarcated, and no transmission has been effected. The respondent himself admits that he and Maxwell had to combine their shares to meet minimum acreage requirements under county by-laws. This admission reveals that individual shares had not been properly delineated. Furthermore, there is the unresolved question of Douglas Owino's entitlement. While the respondent claims Douglas is comfortable with the arrangement, there is no affidavit from Douglas, no consent signed by him, and no evidence that he has been allocated an alternative share in compensation.
- 27.** More fundamentally, the respondent has acted unilaterally in breach of the principle of joint administration. He changed advocates without notice to his co-administrators, caused a letter to be filed in court without serving the applicant, and entered into an agreement to sell property without consultation with his fellow administrators. This conduct undermines the very purpose of appointing multiple administrators to ensure checks and balances in the management of estate assets. The court has jurisdiction under Order 40 Rule 1 of the Civil Procedure Rules to grant an injunction where it is just and convenient to do so, and I am satisfied that the balance of convenience favors granting limited injunctive relief to ensure that the estate is administered in accordance with law and in the best interests of all beneficiaries.
- 28.** In the final analysis and given that there has been no demonstration of a proper appeal filed and the progress of the same since 2022, the following orders do abide:
- a. *The ruling delivered on 23rd October, 2025 is hereby reviewed and set aside.*

- b. *That temporary brakes are hereby applied restraining the administrators, beneficiaries, their agents or assigns from selling, transferring, charging, or in any way dealing with the property known as Eldoret Municipality Block 13/74 until the shares therein have been properly identified, surveyed, allocated and transmitted to the respective beneficiaries in accordance with the law.*
- c. *That the administrators are directed to act jointly in the administration of the estate. Any correspondence, applications or relevant documentation relating to the estate must be copied to all co-administrators to ensure transparency and joint decision-making.*
- d. *For the avoidance of doubt, this order does not affect the validity of the ruling dated 14th March, 2022 confirming the grant and ordering distribution of the estate, which ruling remains in full force and effect. The administrators are directed to implement that ruling in accordance with law and proper procedure.*
- e. *The costs of this application shall be in the cause.*

29. Orders accordingly.

**DATED AND SIGNED AT ELDORET VIA CTS AND EMAIL ON THIS 20TH
JANUARY, 2026**

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R. NYAKUNDI
JUDGE