



REPUBLIC OF KENYA



In re Estate of Mark Joel Ndichu Njenga (Deceased) (Succession Cause E of 2024) [2026] KEHC 457 (KLR) (27 January 2026) (Ruling)

Neutral citation: [2026] KEHC 457 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE E OF 2024
RN NYAKUNDI, J
JANUARY 27, 2026**

IN THE MATTER OF THE ESTATE OF MARK JOEL NDICHU NJENGA (DECEASED)

BETWEEN

ESTHER NYAMBURA NDICHU 1ST ADMINISTRATRIX

AGNES NGOIRI NDISHU 2ND ADMINISTRATRIX

AND

NAHASHON NJENGA NDISHU 1ST OBJECTOR

MICHAEL CHEGE NDISHU 2ND OBJECTOR

RULING

1. The matter herein relates to the estate of the late Mark Joel Ndichu who died on 15th March, 2021. Esther Nyambura Ndichu and Agnes Ngoiri Ndichu being the widow from the second house and a daughter from the first house respectively petitioned for letters of administration indicating that the deceased had the following beneficiaries:

1st House

Mary Wangeci Chege Widow – deceased

Nahashon Njenga Ndichu Son – Adult

Michael Chege Ndichu Son – Adult

Annah Mwihaki Ndichu Daughter – Adult

Douglas Wanyoike Ndichu Son – Adult

Joseph Kieru Ndichu Son – Adult

Agnes Ngoiri Ndichu Daughter – Adult



Grace Naomi Wanjiku Daughter – Adult

2nd House

Esther Nyambura Ndichu Widow – Adult

Nahashon Njenga Ndichu Sasso Son – Adult

Wilson Mwangi Ndichu Son – Adult

Anny Mwihaki Ndichu Daughter – Adult

2. The petition equally indicated that the deceased left the following assets and liabilities:

Assets

- a. Eldoret Municipality/Block 15 (Huruma)/122 0.0666Ha
- b. Eldoret Municipality/Block 15 (Huruma)/521 0.08Ha
- c. Eldoret Municipality/Block 15 (West Farmers)/1604 ... 0.1089Ha.

Liabilities

- d. Juja/Kiaura Block 14(Waroma & Njemuwa INV)/560 ... 0.0217 Ha.
- e. Sergoit/Koiwoptai Block 9/24 0.1970 Ha

3. The Grant was later issued to Esther Nyambura Ndichu and Agnes Ngoiri Ndichu there being no objection at the time.

4. The Objectors thereafter filed summons dated 27th November, 2024 seeking orders as follows:

- a. That the petitioners be restrained from intermeddling with the estate of the deceased by way of collecting rent, from the land parcels known as Eldoret Municipality/Block 11/276, Eldoret Municipality/Block 15(Huruma)/122, Eldoret Municipality/Block 15(Huruma)/521, Juja Kiaura/Block 14/568 and Juja Kiaura Block 14/569, selling the assets of the estate and in any way intermeddling with the estate pending the hearing and determination of this application in the first instance and thereafter pending the hearing and determination of the petition.
- b. That the court be pleased to order the appointment of an Estate agent to collect and manage the rental premises from the land parcels known as Eldoret Municipality/Block 15 (Huruma)/122, Eldoret Municipality/Block 15 (Huruma)/521, Juja Kiaura/Block 14/568 and Juja Kiaura Block 14/569 pending the hearing and determination of this application in the first instance and thereafter pending the hearing and determination of the petition.
- c. That the petitioners do account for all the rent collected from the land parcels known as Eldoret Municipality/Block 15 (Huruma)/122, Eldoret Municipality/Block 15 (Huruma)/521, Juja Kiaura/Block 14/568 and Juja Kiaura Block 14/569 from the time of death of the deceased to date and a Certified Public Accountant be appointed by the court to undertake the exercise and file a report in court.



- d. That upon the report by the Accountant being filed the petitioners do return all the collected rental income to the estate.
 - e. That the time for filing objection proceedings to the estate of the deceased be extended and the objection herein be validated.
 - f. That the objectors be granted leave to file an answer to the application for grant and a cross-application for grant of letters of administration intestate to the estate of the deceased.
 - g. That the costs of this summons be provided for.
5. According to the objectors, they are sons of the deceased as evidenced through the chief's letter. That the petitioners filed the instant cause without involving them and many other beneficiaries of the estate as can be discerned from the consent form filed in court which is without their signatures.
 6. The objectors aver that the petitioners had initially filed Eldoret Chief Magistrate Court Succession Cause No. E278 of 2023 – Re Estate of the late Mark Joel Ndichu- deceased. that the petition was struck out on 4th June, 2024 with costs as the magistrate court was bereft of jurisdiction to deal with the administration of the estate.
 7. Further, the objectors stated that from the instant petition as filed by the petitioners, they only disclosed 3 assets and placed the value of the estate at Kshs. 30,000,000/= and two liabilities.
 8. During the pendency of these proceedings the parties explored mediation as provided under the provisions of 159 2(c) of the Constitutions in which they arrived at partial settlement dated 25th April, 2025 in the following terms:

That the 1st Administratrix Esther Nyambura Ndichu to be retained as an administrator representing House No. 2.

That the 2nd Administratrix Agnes Ngoiri Ndishu has consented to being substituted with her brother Michael Chege Ndishu to represent House No. 1.

That the assets constituting the Estate of the deceased are stated as hereunder:

- a. Kapsaret/Kapsaret Block 1 /Yamumbi/221 measuring approx. 0.8094 Ha.
- b. Muiruti Shopping Center measuring approximately 35x17 Feet.
- c. ELD/MUN. Block 15 Huruma/521 approximately 0.08 Ha.
- d. ELD/MUN. Block 15 West Farmers/1604 approximately 0.1089 Ha.
- e. ELD/MUN. Block 15 Huruma/221.
- f. ELD/MUN. Block 15 West Farmers/1621 (title not ready).
- g. Juja/Kiaura Block 14 (Waroma & Njemwa)/560 approximately 0.0209 Ha.
- h. Juja/Kiaura Block 14 (Waroma & Njemwa)/568 approximately 0.0209 Ha.
- i. Juja/Kiaura Block 14(Waroma & Njemwa)/569 approximately 0.0209 Ha.
- j. Sergoit/Koiwoptai Block 9/24 measuring approximately 0.1970 Ha.
- k. ELD/Hill School Plot No. 1413.



- l. ELD/Hill School Plot No. 1412 (Hill School Annex)
- m. ELD/Kipkaren Block 15/784 (Already sold by the deceased).
- n. Plot measuring 40x60 feet along Thika-Garissa Highway at a place known as Kisii.
- o. Plots in pipeline/Wanyama Nakuru (still being processed).
- p. Money lying in two bank accounts in ABSA.
- q. Money lying in Bank Account in National Bank.
- r. Shares in Ken Gen, Safaricom and KCB.
- s. Mpesa Account – Kshs. 200,000/=.
- t. Money lying in Matanya 2014 Co. Limited.
- u. Money lying in Upendo Self Help Group.
- v. Money lying in Menyerera Self Help Group.

That the debtors who owe money to the deceased's estate are as hereunder:

Alfajiri SDA Church Eldoret Shauri Estate owed Kshs. 80,000/= (has already been paid).

Mr. Mutaha Francis tenant at Juja owes Kshs. 346,250/= - Rent arrears.

Dr. Makokha owes Kshs. 200,000/= Rent arrears.

Baba Ziggy (Rwandese National) owes Kshs. 84,000/= Rent arrears.

IDP Lawsuit Milimani HCCC No. 617 of 2008 – Compensation by payment of damages.

Joseph Maina owed Kshs. 70,000/= (Already paid).

Sale of Motor Vehicle KBY 901D Kshs. 590,000/= (Already paid).

Dividend/Shares – Matanya 2014 Co. Limited.

Isaac Wahome – Kshs. 200,000/= Sale of motor vehicle.

That the beneficiaries to the Estate of Mark Joel Ndichu Njenga are as hereunder:

House No. 1 – Beneficiaries

Nahashon Njenga Ndichu

Michael Chege Ndishu

Hannah Mwihaka.

Douglas Wanyoike (deceased)

Joseph Kiero

Agnes Ngoiri Ndishu

Grace Wanjiku.



House No. 2 – Beneficiaries.

Esther Nyambura Ndichu.

Nahashon Sasso Njenga Ndichu.

Wilson Mwangi Ndichu

Anna Mwihaki Ndichu.

That the liabilities are as listed hereunder:

Michael Chege Ndishu – Kshs. 100,000/=.

Waweru Welding (Juja) – Kshs. 26,000/=.

Joyce Njenga – Kshs. 50,000/=

That Plot Nos. Eldoret Hillschool No. 1412 and 1413 be given to the estate of the deceased's father Nahashon Njenga Karuba.

Plot No. Juja/Kiaura Block 14 (Waroma and Njemwa INV)/560 be given to Joshua Kariuki Njenga ID No. 737xxxx.

Plot No. Eldoret Municipality Block 15/784 to be given to the purchases James Kirehu Gatundu ID No. 1136xxxx.

With effect from the month of May 2025 the Rent collected shall be deposited in the Joint current account No. 100211xxxx in the names in the names of Michael Ndishu and Esther Ndichu at NCBA Bank Eldoret Branch

The following issues were returned to court for determination:

The issue pertaining to taking of accounts regarding Rent collected since the demise of the deceased herein on 15.3.2021 to date.

The mode of distribution of the Estate of the deceased save the properties stated herein above.

9. I have carefully considered the terms of the partial settlement agreement dated 25th April, 2025, filed before this court. The agreement represents a genuine effort by the parties to resolve their differences through alternative dispute resolution mechanisms as contemplated under Article 159(2) (c) of *the Constitution*. Having examined its contents, I find that the agreement is comprehensive in scope, addresses key aspects of the estate administration, and reflects the consensus reached by all parties involved. Notably, no party has raised any objection to the terms contained therein, and the agreement bears the signatures of all the relevant parties, demonstrating their full consent and commitment to its terms. In the circumstances, and in furtherance of the constitutional imperative to promote reconciliation and expeditious resolution of disputes, I hereby adopt and affirm the said partial settlement agreement dated 25th April, 2025, as an order of this court. The agreed terms relating to the identification of assets, liabilities, beneficiaries, and the specific allocations enumerated therein shall be binding upon all parties and shall form the foundation upon which the remaining contested issues shall be determined.
10. Moving on, when the parties appeared before me on 27th May, 2025, this court directed them to file modes of distribution of the estate whose content reflects substantially as hereunder:

The Objectors proposed that the estate be distributed as follows:



Name	Description Of Property	Share Of HeiRS
Nahashon Njenga Ndishu Michael Chege Ndishu Douglas Wanyoike Disesed Joseph Kieru Ndishu Nahashon Njenga Sasso Ndichu Willison Mwangi Ndishu	KAPSARET/KAPSARET Block 1/YAMUMBI/221 0.8094HA	Be subdivided equally into 6 units.
Esther Nyambura Ndichu	MWIRUTI SHOPPING CENTER Measuring approximately 35*17 feet.	Whole.
Matrimonial Home House 2	ELD/MUN Block 15 Huruma/521 Measuring approximately 0.0816 Ha.	Divided equally into 2 plots and shared between as matrimonial home for the whole family and the 2nd house, with Esther Nyambura Ndichu having a life interest in the Matrimonial House.
Anna Mwhaki Ndishu Agness Ngoiri Ndishu	ELD/MUN Block 15 WEST FARMERS/1604 Measuring 0.1089 Ha.	To be divided equally into 2 units.
Mary Wangeci's Family	ELD/MUN Block 15 Huruma/221	Whole.
Ann Mwhaki Ndichu Grace Naomi Wanjiku	ELD/MUN WEST FARMERS/1621 Measuring approximately 0.1089 Ha.	To be divided equally into 2 units.
Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu	JUJA/KIAURA BLK 14 (WARUMA & NJEMWA)/568 Measuring 0.217 Ha.	To be sold and the sale proceeds to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%.



<p>Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>		<p>Michael Chege Ndishu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
<p>Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>	<p>JUJA/KIAURA BLK 14 (WARUMA & NJEMWA)/569 Measuring 0.217 Ha.</p>	<p>To be sold and the sale proceeds to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
<p>Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere</p>	<p>SERGOIT/KOIWAPTAI BLK 9/24 Measuring approximately 0.2970 Ha.</p>	<p>To be sold and the sale proceeds to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%.</p>



<p>Nahasho Sasso Njenga Ndichu</p> <p>Wilson Mwangi Ndichu</p> <p>Grace Naomi Wanjiku</p> <p>Anna Mwhaki Ndichu</p>		<p>Ann Mwaniki Ndichu – 9%.</p> <p>Douglas Wanyoike Ndichu – 9%.</p> <p>Joseph Kieru Ndichu – 9%.</p> <p>Agness Ngoiri Mbere – 9%.</p> <p>Nahasho Sasso Njenga Ndichu – 9%.</p> <p>Wilson Mwangi Ndichu – 9%.</p> <p>Grace Naomi Wanjiku – 9%.</p> <p>Anna Mwhaki Ndichu – 9%.</p>
<p>House 1 Mary Wangeci</p>	<p>Plot measuring 40*60 in Thika along Thika - Garissa highway.</p>	<p>Whole.</p>
<p>Esther Nyambura Ndichu</p> <p>Nahashon Njenga Ndishu</p> <p>Michael Chege Ndishu</p> <p>Ann Mwaniki Ndichu</p> <p>Douglas Wanyoike Ndichu</p> <p>Joseph Kieru Ndichu</p> <p>Agness Ngoiri Mbere</p> <p>Nahasho Sasso Njenga Ndichu</p> <p>Wilson Mwangi Ndichu</p> <p>Grace Naomi Wanjiku</p> <p>Anna Mwhaki Ndichu</p>	<p>Plots in Pipeline Wanyam Nakuru.</p>	<p>After allotment is completed, the same to be sold and proceeds shared as follows;</p> <p>Esther Nyambura Ndichu – 10%.</p> <p>Nahashon Njenga Ndishu – 9%.</p> <p>Michael Chege Ndishu – 9%.</p> <p>Ann Mwaniki Ndichu – 9%.</p> <p>Douglas Wanyoike Ndichu – 9%.</p> <p>Joseph Kieru Ndichu – 9%.</p> <p>Agness Ngoiri Mbere – 9%.</p> <p>Nahasho Sasso Njenga Ndichu – 9%.</p> <p>Wilson Mwangi Ndichu – 9%.</p> <p>Grace Naomi Wanjiku – 9%.</p> <p>Anna Mwhaki Ndichu – 9%.</p>
<p>Esther Nyambura Ndichu</p> <p>Nahashon Njenga Ndishu</p> <p>Michael Chege Ndishu</p> <p>Ann Mwaniki Ndichu</p> <p>Douglas Wanyoike Ndichu</p> <p>Joseph Kieru Ndichu</p>	<p>Absa account number 0034016593.</p>	<p>The monies in the account to be shared as follows;</p> <p>Esther Nyambura Ndichu – 10%.</p> <p>Nahashon Njenga Ndishu – 9%.</p> <p>Michael Chege Ndishu – 9%.</p>



<p>Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>		<p>Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
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Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu		Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.
Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu	Investment/money lying in Matanya 2014 Company Limited. CPR/2014/132433	The monies to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.
Esther Nyambura Ndichu	Shares in Safaricom, KenGen and KCB Group.	Whole.
Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu	Investment/money lying in Upendo Self-Help Group.	The monies to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%.



<p>Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>		<p>Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
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<p>Anna Mwihaki Ndichu</p>		<p>Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
<p>Esther Nyambura Ndichu Nahashon Njenga Ndichu Michael Chege Ndichu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>	<p>12.5% of the Estate of the late Nahashon Njenga Kabuba – deceased.</p>	<p>The same to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndichu – 9%. Michael Chege Ndichu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwihaki Ndichu – 9%.</p>
<p>Esther Nyambura Ndichu Nahashon Njenga Ndichu Michael Chege Ndichu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwihaki Ndichu</p>	<p>Anticipated money in IDP Mililani HCCC No. 617 of 2008.</p>	<p>The anticipated monies to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndichu – 9%. Michael Chege Ndichu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%.</p>



		Grace Naomi Wanjiku – 9%. Anna Mwhaki Ndichu – 9%.
Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu Agness Ngoiri Mbere Nahasho Sasso Njenga Ndichu Wilson Mwangi Ndichu Grace Naomi Wanjiku Anna Mwhaki Ndichu	Isaac Wahome - sale of motor vehicle make Toyota Probox.	The proceeds made from the sale of the motor vehicle make Toyota Probox be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%. Ann Mwaniki Ndichu – 9%. Douglas Wanyoike Ndichu – 9%. Joseph Kieru Ndichu – 9%. Agness Ngoiri Mbere – 9%. Nahasho Sasso Njenga Ndichu – 9%. Wilson Mwangi Ndichu – 9%. Grace Naomi Wanjiku – 9%. Anna Mwhaki Ndichu – 9%.
The Estate of the late Nahashon Njenga Kabuba – deceased.	Eldoret Hill School No. 1412 and 1413.	Whole.
Joshua Kariuki Njenga I.D. No. 737xxxx	JUJA/KIAURA Block 14 (WAROMA & NJEMUVA INV)/560	Whole.
James Kirechu Gatundu I.D. No. 1136xxxx	Eldoret Municipality Block 15/784	Whole.
Esther Nyambura Ndichu Nahashon Njenga Ndishu Michael Chege Ndishu Ann Mwaniki Ndichu Douglas Wanyoike Ndichu Joseph Kieru Ndichu	Rental income accrued from 15th March, 2025 to May, 2025.	The rent income collected to be shared as follows; Esther Nyambura Ndichu – 10%. Nahashon Njenga Ndishu – 9%. Michael Chege Ndishu – 9%.



<p>Agness Ngoiri Mbere</p> <p>Nahasho Sasso Njenga Ndichu</p> <p>Wilson Mwangi Ndichu</p> <p>Grace Naomi Wanjiku</p> <p>Anna Mwihaki Ndichu</p>	<p>Ann Mwaniki Ndichu – 9%.</p> <p>Douglas Wanyoike Ndichu – 9%.</p> <p>Joseph Kieru Ndichu – 9%.</p> <p>Agness Ngoiri Mbere – 9%.</p> <p>Nahasho Sasso Njenga Ndichu – 9%.</p> <p>Wilson Mwangi Ndichu – 9%.</p> <p>Grace Naomi Wanjiku – 9%.</p> <p>Anna Mwihaki Ndichu – 9%.</p>
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The Administrators through Esther Nyambura Ndichu gave a proposal of how the estate should be distributed. In her affidavit, Esther Nyambura Ndichu deposed as follows:

1. That pursuant to the Honorable Court's directive issued on 27th May 2025, I hereby submit this affidavit proposing an equitable mode of distribution over the estate of my late husband, Mark Joel Ndichu Njenga, who died intestate on 15th March 2021.
2. That I am the surviving widow of the deceased and serve as a co-administrator of the estate, alongside Agnes Ngoiri, a daughter of the deceased, who represents the interests of the first house (children from the first marriage), while I represent the second house (my household).
3. That this affidavit is made both on my own behalf and on behalf of my three biological children, namely: Nahashon Njenga Wilson Mwangi Anna Mwihaki whose express consent I have obtained in advance for purposes of this submission.

Family Structure Of The Deceased - Mark Joel Ndichu Njenga

4. That the deceased, Mark Joel Ndichu Njenga, was lawfully married twice during his lifetime, and from these two unions arose two separate households.
5. That his first marriage was to the late Mary Wangechi Ndichu, solemnized in the year 1973. This marriage endured until the year 1984, when Mary permanently left the matrimonial home and never returned. She subsequently passed away in the year 1991, while still living separately from the deceased.
6. That the union between the deceased and Mary Wangechi Ndichu was blessed with seven (7) children: Nahashon Njenga Michael Chege Hannah Mwihaki Douglas Wanyoike (deceased) Joseph Kieru Agnes Ngoiri Grace Wanjiku
7. That I, Esther Nyambura Ndichu, became the second lawful wife of the deceased in 1982, and remained his spouse until his passing in 2021, making our union one of nearly forty (40) years of uninterrupted marriage and companionship.



8. That from our marriage, we were blessed with three (3) children: Nahashon Njenga Wilson Mwangi Anna Mwihaki
9. That when Mary Wangechi Ndichu left the matrimonial home in 1984, she did so leaving behind all her seven children, who remained under the sole care of the deceased. From that point forward, I assumed full responsibility for raising these children as my own, alongside my three biological children with the deceased.
10. That the following is a complete and verified inventory of all known assets and liabilities of the late Mark Joel Ndichu Njenga, compiled through joint family meetings, court-supervised mediation, and documentation from land registries, banks, and investment institutions.

A. DEVELOPED PROPERTIES



Item No.	Property Name	Details	Notes
1	Yamumbi Home	Kapsaret Block 1/ Yamumbi/221 Area: 0.8094 ha (2.000 acres)	2-acre farm with a homestead. Historically the home of the deceased and his first wife.
2	Huruma Home	Eldoret Municipality/ Block 15/ Huruma/521 Area: 0.0800 ha (0.1977 acres)	Principal matrimonial home of the deceased and myself for many years.
3	Eldoret Rental Property	Eldoret Municipality/ Block 15/ Huruma/122 Area: 0.0666 ha (0.1646 acres)	Residential rental units generating approx. KSh 80,000 per month.
4	Kenyatta Road Rental Blocks	Juja/ Kiaura Block 14/568 and 14/569 Total Area: 0.0418 ha (0.1032 acres)	One integrated rental building spanning both plots. Income approx. KSh 80,000/month.
5	Mwiruti Plot	Mwiruti Shopping Centre Area:	Commercial plot, currently vacant and



		0.00553 ha (0.0137 acres)	in dilapidated condition. B. UNDEVELOPED PLOTS
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Item No.	Plot Name	Details	Notes
6	West Farmers Plot A	Eldoret Municipality/ Block 15 (West Farmers)/1621 Area: 0.1089 ha (0.2691 acres)	Undeveloped land.
7	West Farmers Plot B	Eldoret Municipality/ Block 15 (West Farmers)/1604 Area: 0.1089 ha (0.2691 acres)	Undeveloped land.
8	Makongeni Plot	Along Thika-Garissa Highway Area: 0.02230 ha (0.0551 acres)	Undeveloped land. C. FINANCIAL ASSETS



Item No.	Type	Details	Notes
9	Bank Accounts	Absa 0034016593, Absa 0036002166, National Bank 01286111786400	Balances not yet confirmed.
10	Equity Holdings	Shares in Safaricom PLC, KenGen PLC, and KCB Group PLC	Quantity and valuation pending.
11	Chama Shares	Membership in Matanya 2014 Co. Ltd, Upendo, and Menyerera Self-Help Groups	Shares jointly held by the deceased and myself. D. LIABILITIES THIRD-PARTY ENTITLEMENTS



Item No.	Property/ Title	Details	Notes
12	Hill School Plots	Titles Nos. 143 and 147	Held in trust for the estate of the late Nahashon Njenga Kabuba. No contest.
13	First Avenue Plot	Juja/ Kiaura Block 14/ Waroma & Njemua/560	Held in trust for Joshua Kariuki Njenga. No contest.
14	Kipkaren Plot	Eldoret/ Kipkaren Block 15/784	Sold prior to death to James Gatundu. Full payment received. Title pending transfer.
15	Munyaka Plot	Sergoit/ Koiwopai Block 9/24	Sold to multiple buyers. Full payments received. Titles pending transfer. E. COURT AWARDS



Item No.	Description	Details	Notes
16	IDP Compensation	Civil Suit No. 617/2008	Payment to the estate is pending. Final amount not yet confirmed. AGREED DISTRIBUTIONS FROM MEDIATION

11. That during the court-supervised mediation process, all parties made substantial progress and reached consensus on the fate of several properties linked to the estate of the late Mark Joel Ndichu Njenga.
12. That these agreements were organized into two key categories: Estate Assets that would form part of the distribution among the two households; and Liabilities and Third-Party Interests, which were not to be distributed, having either been held in trust or sold before death.
13. That the parties jointly confirmed that the liabilities listed below were not part of the deceased's estate, and the Court was requested to adopt the agreed-upon resolutions regarding each.

Table 5.1: Agreed Asset Allocations



Item No.	Asset Name	Description	Agreed Allocation
1	Yamumbi Home	Kapsaret Block 1/ Yamumbi/221 Area: 0.8094 ha (2.000 acres)	House 1
2	Huruma Home	Eldoret Municipality/ Block 15/ Huruma/521 Area: 0.0800 ha (0.1977 acres)	House 2
3	Mwiruti Plot	Mwiruti Shopping Centre Area: 0.00553 ha (0.0137 acres)	House 1 Table 5.2: Agreed Liabilities and Resolutions (Not Part of the Estate)



Item No.	Property Name	Details	Agreed Resolution
4	Hill School Plots	Titles Nos. 143 and 147 Held in trust for the estate of Nahashon Njenga Kabuba.	Revert to Kabuba's estate
5	First Avenue Plot	Juja/ Kiaura Block 14/ Waroma & Njemua/560 Held in trust for Joshua Kariuki Njenga	Transfer to Joshua Kariuki Njenga
6	Kipkaren Plot	Eldoret/ Kipkaren Block 15/784 Sold to James Gatundu prior to death. Payment complete	Title transfer to James Gatundu
7	Munyaka Plot	Sergoit/ Koiwopai Block 9/24 Sold to bona fide purchasers. Payments complete.	Titles to be issued to buyers 14. That these agreed positions were made without



			<p>reservation by all parties and are presented herein for adoption by this Honorable Court as the foundation for a fair and undisputed final distribution plan.</p> <p>OUTSTANDING ITEMS (NO CONSENSUS REACHED)</p>
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Item No.	Asset Name	Description
3	Eldoret Rental Property	Eldoret Municipality/ Block 15/ Huruma/122 Area: 0.0666 ha (0.1646 acres) Rental income: approx. KSh 80,000/month
4	Kenyatta Road Rental Property	Juja/Kiaura Block 14/568 & 14/569 Total Area: 0.0418 ha (0.1032 acres) Rental income: approx. KSh 80,000/month
6	West Farmers Plot A	Eldoret Municipality/ Block 15 (West Farmers)/1621 Area: 0.1089 ha (0.2691 acres)
7	West Farmers Plot B	Eldoret Municipality/ Block 15 (West Farmers)/1604 Area: 0.1089 ha (0.2691 acres)
8	Makongeni Plot	Along Thika-Garissa Highway, Makongeni Area Area: 0.0223 ha (0.0551 acres)
9	Bank Accounts	Absa 0034016593, Absa 0036002166, National Bank 01286111786400



		Balances yet to be confirmed
10	Equity Holdings	Shares in Safaricom PLC, KenGen PLC, and KCB Group PLC Exact quantities and value to be confirmed
11	Chama Shareholdings	Matanya 2014 Co. Ltd, Upendo, and Menyerera Self-Help Groups Shares jointly held with the deceased
16	IDP Compensation	Civil Suit No. 617/2008 Compensation to the estate pending; final amount not yet confirmed

15. That I now respectfully propose, in the next section, a fair and principle-based allocation of these remaining assets between House 1 and House 2, applying moral reasoning, family history, and legal equity.
16. That I, Esther Nyambura Ndichu, respectfully propose that the estate of the late Mark Joel Ndichu Njenga be distributed using a structured, equitable, and principle-driven model, referred to as the Two-House Distribution Model.

Allocation Summary by Household

Assets Proposed for House 1:

Yamumbi Home (0.8094 ha / 2.000 acres) Eldoret Rental Property (approx. KSh 80,000/month) Mwiruti Plot (0.00553 ha) West Farmers Plot A (0.1089 ha) Makongeni Plot (0.0223 ha) 50% of bank accounts and equity holdings

Assets Proposed for House 2:

Huruma Home (0.0800 ha / 0.1977 acres) Kenyatta Road Rental Property (0.0418 ha; income: KSh 80,000/month) West Farmers Plot B (0.1089 ha) All Chama Shareholdings IDP Compensation 50% of bank accounts and equity holdings

17. That I respectfully pray this Honorable Court to:



(a) Adopt and affirm the Two-House Model of distribution as proposed herein;(b) Direct that each house be granted time preferably through court-assisted mediation to internally determine how to share the assets allocated to them;(c) Require that each house submit its internal sharing proposal to this Honourable Court for final confirmation and decree.

Analysis and determination

11. The deceased passed away without leaving a valid will. Consequently, the distribution of his estate falls under the statutory framework established by the *Law of Succession Act*. During his lifetime, the deceased was married to two (2) wives under a polygamous union. The applicable law governing such distribution is found in Section 40(1) of the *Law of Succession Act*, which sets out the following provisions:

“40(1) where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.”

12. In *Mary Rono vs Jane Rono & another*, [2005] eKLR, Waki JA in the leading judgment, accepted the proposition that the Court had the discretion in ensuring a fair distribution of the deceased’s estate but that the discretion must be exercised judicially on sound legal and factual basis. In the same judgment, Omollo JA stated the position more clearly as follows:

“My understanding of that section is that while the net intestate estate is to be distributed according to houses each house being treated as a unit, yet the judge doing the distribution still has a discretion to take into account or consider the number of children in each house. If Parliament had intended that they must be equality between houses they would have been no need to provide in the section that the number of children in each house be taken into account.

Nor do I see any provision in the Act that each child must receive the same or equal portion. That would clearly work injustice particularly in the case of a young child who is still to be maintained, educated and generally seen through life. If such a child whether a girl or a boy, were to get an equal inheritance with another who is already working and for whom no school fees and things like that were to be provided, such equality would work an injustice and for my part, I am satisfied that the Act does not provide for that kind of equality.”

13. The primary duty of this court is threefold: first, to ascertain the assets constituting the deceased’s estate; second, to identify the lawful beneficiaries; and third, to effect an equitable distribution among them. Through the mediation process undertaken by the parties, significant progress has been achieved in relation to the first two aspects. The assets have been comprehensively identified and agreed upon, and there is no dispute as to the beneficiaries comprising the two houses. What remains for determination is the mode of distribution between House 1 and House 2 on the remaining assets, with two competing proposals having been placed before the court. In arriving at a just and equitable distribution, this court must apply the principles established under Section 40(1) of the *Law of Succession Act* while giving due consideration to the unique circumstances of this estate, including the contribution of each house, the needs of the beneficiaries, and the overarching principle that fairness and justice must anchor any distribution order emanating from this court.



14. Having carefully considered both proposals placed before this court, I find that the Two-House Distribution Model proposed by the Administratrix aligns with the correct legal framework under Section 40(1) of the *Law of Succession Act*.
15. However, while I adopt the Two-House Model in principle, I note that the distribution must reflect the statutory ratio prescribed under Section 40(1) of the *Law of Succession Act*. Applying the formula, House 1 comprises 7 children (including the late Douglas Wanyoike whose share will devolve to his estate) and no surviving widow, giving it 7 units. House 2 comprises 3 children and 1 surviving widow (Esther Nyambura Ndichu), giving it 4 units. Consequently, the estate must be distributed in the ratio of 7:4 between House 1 and House 2, which translates to approximately 64% for House 1 and 36% for House 2.
16. I am alive to the fact that some assets forming part of the deceased's estate have not been sufficiently identified or quantified at this stage. These include the exact balances in the bank accounts held at Absa Bank (Account Nos. 0034016593 and 0036002166) and National Bank (Account No. 01286111786400), the precise number and value of shares held in Safaricom PLC, KenGen PLC, and KCB Group PLC, the shareholding and value in Matanya 2014 Company Limited, Upendo Self-Help Group, and Menyerera Self-Help Group, as well as the plots in Pipeline Wanyama Nakuru which are still being processed. Additionally, the quantum of compensation arising from the IDP lawsuit (Milimani HCCC No. 617 of 2008) remains uncertain. In the circumstances, it would be premature and unjust to attempt a final distribution of these assets at this juncture.
17. Accordingly, I direct that the administrators shall take all necessary steps to identify, quantify, and value these outstanding assets within a period of two (2) months from the date of this ruling. Once these assets have been properly identified and quantified, the administrators shall file a supplementary report with this court, whereupon the court shall issue further directions for their distribution in accordance with the statutory ratio herein established.
18. In the meantime, I proceed to distribute the clearly identified and ascertainable assets in accordance with the Two-House Model, ensuring compliance with the 7:4 statutory ratio. The distribution is as set out in the table below:



ITEM	DESCRIPTION	ALLOCATION	REMARKS
A. ASSETS DISTRIBUTED IN MEDIATION (ADOPTED AS ORDERS OF COURT)			
1.	Kapsaret Block 1/ Yamumbi/221 (0.8094 Ha)	House 1	Agreed allocation. This was the matrimonial home of the deceased and his first wife.
2.	Eldoret Municipality/ Block 15/ Huruma/521 (0.08 Ha)	House 2	Agreed allocation. This is the matrimonial home of the deceased and Esther Nyambura Ndichu.
3.	Mwiruti Shopping Centre (approx. 35x17 feet)	House 1	Agreed allocation. Commercial plot currently in dilapidated condition.
B. PROPERTIES NOT FORMING PART OF THE ESTATE (ADOPTED AS ORDERS OF COURT)			
4.	Eldoret Hill School Plot Nos. 1412 and 1413	Estate of late Nahashon Njenga Kabuba	Held in trust. To revert to Kabuba's estate. Administrators to facilitate transfer.
5.	Juja/Kiaura Block 14 (Waroma & Njemwa)/560 (0.0217 Ha)	Joshua Kariuki Njenga (ID: 737xxxx)	Held in trust. Administrators to facilitate direct transfer.
6.	Eldoret Municipality Block 15/ Kipkaren/784	James Kirechu Gatundu (ID: 1136xxxx)	Sold during deceased's lifetime. Payment complete. Administrators to facilitate title transfer.
7.	Sergoit/Koiwoptai Block 9/24 (0.1970 Ha)	Bona fide purchasers	Sold during deceased's lifetime. Payments complete. Administrators to facilitate title transfers.



C. REMAINING ASSETS - DISTRIBUTED TO ACHIEVE 7:4 STATUTORY RATIO			
8.	Eldoret Municipality/ Block 15/ Huruma/122 (0.0666 Ha) - Rental Property generating approx. Kshs. 80,000/month	House 1	Income-generating property allocated to House 1 to balance the ratio.
9.	Juja/Kiaura Block 14/568 and 569 (0.0418 Ha combined) - Rental Property generating approx. Kshs. 80,000/ month	House 2	Single integrated rental building spanning both plots allocated to House 2.
10.	Eldoret Municipality/ Block 15 (West Farmers)/1621 (0.1089 Ha)	House 1	Undeveloped land.
11.	Eldoret Municipality/ Block 15 (West Farmers)/1604 (0.1089 Ha)	House 1	Undeveloped land.
12.	Plot measuring 40x60 feet along Thika- Garissa Highway, Makongeni	House 2	Undeveloped land.
13.	Eldoret Municipality/ Block 15/ Huruma/221	House 1	As agreed during mediation.
D. RENTAL INCOME			
14.	Rental income from 1 st May 2025 onwards	To be deposited in Joint Account No. 100211xxxx (NCBA Bank) in names of Michael Ndishu and Esther Ndichu	As per mediation agreement. Monthly deposits until final distribution.

19. In respect of the rental income collected from the date of death of the deceased (15th March 2021) to 30th April 2025, I note that this formed part of the objectors' prayers in their summons dated 27th November 2024. The matter of accountability for rental income remains a live issue. Accordingly, I hereby order



that a Certified Public Accountant be appointed by consent of the parties, failing which by the court, to undertake a comprehensive audit of all rental income collected from the estate properties during the said period. The Accountant shall file a detailed report within forty-five (45) days from the date of this ruling. Upon filing of the report, the parties shall be at liberty to address the court on the appropriate orders to be made regarding the distribution of the said rental income in accordance with the statutory ratio of 64%:36%.

20. The administrators are hereby directed to continue managing the estate diligently and to take all necessary steps to preserve the estate assets pending final distribution. They shall maintain proper accounts and shall be answerable to the court for any acts of mismanagement or waste.
21. In the final result, I make the following orders:
 - a. The partial settlement agreement dated 25th April 2025 is hereby adopted and affirmed as an order of this court.
 - b. The estate of the late Mark Joel Ndichu Njenga shall be distributed between House 1 and House 2 in the statutory ratio of 7:4 as set out in the table above.
 - c. The administrators shall identify, quantify, and value all outstanding assets within two (2) months from the date of this ruling and file a supplementary report for further directions.
 - d. A Certified Public Accountant shall be appointed to audit rental income collected from 15th March 2021 to 30th April 2025, with a report to be filed within forty-five (45) days.
 - e. Each party shall bear its own costs.
22. Orders accordingly.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 27TH DAY OF JANUARY, 2026

.....
R. NYAKUNDI
JUDGE

