

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FAMILY DIVISION

MILIMANI LAW COURTS

ORIGINATING SUMMONS CASE NO. E008 OF 2023

VICTORIA MWIKALI JOSEPH

PLAINTIFF

VERSUS

**STANLEY MAINA NJUGUNA, LILIAN NJERI NJIHIA, AND
IVY SARAH WAMBUI NJUGUNA**

*(sued as the Administrators in the estate of Eliud
Murugu Njuguna (Deceased)*

DEFENDANT/RESPONDENT

AND

BEATRICE WANJIRU

KIMANI.....INTENDED

RESPONDENT/APPLICANT

AND

**JOHN NORRIS WAITHAKA PROPOSED
INTERESTED PARTY/APPLICANT**

**STEVE COLLINS RUO MURUGU PROPOSED
INTERESTED PARTY/APPLICANT**

RULING

1. Victoria Mwikali Joseph is the widow of **Eliud Murugu Njuguna** (deceased) who died intestate on 23rd January, 2018. Petition for Grant of Letters of Administration was filed in the High Court at Nairobi, **Succession Cause No. 775 of 2018** and the following were appointed administrators:

- a) Victoria Mwikali Joseph (widow)
- b) Stanley Maina Njuguna (brother)
- c) Lilian Njenga - (sister)
- d) Ivy Sarah Wambui Njugun (daughter)

2. Before the Grant was confirmed, Victoria (Plaintiff) filed the Originating Summons in the file now before me and sought the following orders;

a) THAT it be declared that the properties listed herein below with all buildings and developments

thereon acquired and developed by the joint funds and efforts of the Applicant and the Deceased during their marriage and registered in the name of the Deceased were held by the Deceased in trust for the Applicant: -

i. KIAMBAA/RUAKA/3960 (RUAKA FLATS)

ii. KIAMBAA/RUAKA/3962 (A portion)

iii. CHANIA RIVER BANK ESTATE L.R. NO. 304/19304/20

iv. KAJIADO KAPUTIE NORTH/11945

v. KAJIADO ILDAMAT/6607

vi. KISUMU MUNICIPALITY/BLOCK5/909

vii. KJD/DALALEKUTUK/4435

viii. NAIVASHA/MARAIGUSHU BLOCK13/149 (KIRIMA)

ix. KJD/LOODARIAK/31409

x. NYANDARUA/KARATI/8541

xi. KAMITI/ANMER BLOCK 5/193 KENDA FARM KAMITI KIAMBU

xii. JUJA/KIARURA BLOCK 11/8

xiii. RIDGEWAYS L.R. NO. 15294/124

xiv. MAVOKO NSSF L.R. NO. 18064/1

b) THAT this Honourable court be pleased to divide the said properties at 50% or such other proportion to the Applicant as the Court may determine fit.

c) THAT this Honourable court be pleased to make such further orders as the interests of justice may require.

d) THAT the costs of the Summons are provided for.

3. The OS has not been fixed for hearing. Interlocutory applications have been filed by three other parties;

a) Application dated 19th May, 2025 by Beatrice Wanjiru Kimani

b) Application dated 19th May, 2025 by John Norris Waithaka Murugu and Steve Collins Ruo Murugu.

4. The two applications seek orders that the Applicants therein be joined as interested parties in this case and that they be allowed to file responses to the suit upon service of the pleadings filed herein.

5. Beatrice argues that her joinder is to secure the interests of a minor **(CW)**, a child of the deceased and beneficiary to

his estate. John and Steve argue that they have a beneficial interest in the subject matter of the O.S as the children of the deceased and confirmed beneficiaries in the Probate matter.

6. In the Probate Matter, Honourable Justice S. N. Riechi delivered a judgment on 27th May, 2025 wherein he confirmed the Grant and distributed the Estate amongst the named 16 beneficiaries, and the plaintiff, defendants, and **CW** (minor) are among the beneficiaries.

7. On perusal of the file, I have noted that an appeal has been filed relating to the Probate Matter at the Court of Appeal **E754 of 2025**, from the perusal, the appeal was lodged by other parties and not by the Plaintiff in this case. Further, the record shows that the Plaintiff, together with other beneficiaries, have applied to execute the Judgment that gave rise to the Certificate of Confirmation of Grant.

8. With a Judgment in the Probate Matter, to which the Plaintiff is seeking to execute, this court presumes that the Plaintiff, having not lodged any appeal against that Judgment, is content with the issues of contribution/ownership that have been raised in the present

O.S. At the hearing of the applications, it was submitted by the Defendants that most of the properties that the Plaintiff sought reliefs over were allocated to her.

9. In any event, proceeding with the present O.S would mean reopening the issues and making a determination about the same properties in the succession cause in a separate suit.

10. The applications for joinder of parties have been rendered moot.

11. It behoves the Plaintiff to either withdraw the present suit or otherwise take any other appropriate action as she may deem fit. The Defendants are also at liberty to apply for such orders as may be necessary in the circumstances.

12. The matter to be fixed for mention to confirm status. No orders are made as to the costs of the applications.

13. It is so ordered.

DATED, DELIVERED and SIGNED at NAIROBI through the Microsoft Teams Online Platform on this **2ND** day of **FEBRUARY, 2026.**

.....

C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Ms. Kipkulei Advocate, holding brief for Ms Ngugi Advocate
for the Applicant

Mr. Mwaka Advocate, holding brief for Mrs. Kayugira
Advocate for Respondent

ORIGINAL