



**In re Estate of Naomi Wanjiru Chege (Deceased) (Succession Cause 2602 of 2014)
[2026] KEHC 1813 (KLR) (Family) (20 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 1813 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 2602 OF 2014
PM NJOROGE, J
FEBRUARY 20, 2026
IN THE MATTER OF THE ESTATE OF NAOMI WANJIRU CHEGE (DECEASED)**

JUDGMENT

1. This Judgment relates to Summons for Confirmation of Grant dated 15.04.2019 presented by the Administrators of the Estate of the above-named Naomi Wanjiru Chege- Elizabeth Wanjiku Chege, Hellen Njeri Chege and Simon Kimani Chege. The Grant was issued on 9th May 2018.
2. It is deponed that the deceased was survived by the following beneficiaries:
 - Elizabeth Wanjiku Chege- Daughter
 - Hellen Njeri Chege- Daughter
 - Peter Chege- Son
 - Simon Kimani Chege- Son
 - Esther Nyambura Chege (Deceased)- Daughter (represented by Moses Ituma Muli on behalf of her daughter Salma Ituma)
 - Tonny Kamau Wanjiru- Son
3. That the only property of the deceased at the time of her death was Plot Number 60- Huruma Fire Victims (Ghetto) whose ownership has been confirmed by Nairobi City County Government vide letter dated 24.10.2018
4. It is further deposed that the beneficiaries of the estate of the deceased have agreed to have the above-named property sold, and the proceeds of sale be distributed equally among them.
5. Tony Kamau Wanjiru lodged protest vide an affidavit sworn on 9th September 2019. His protest is based on allegations of forgery, misrepresentations as set out in the affidavit and he states, the errors



- are material as they mislead the court by distorting the true identity of the deceased as noted in the Birth Certificate.
6. For instance, The Grant names the deceased as Naomi Wanjiru Chege alias Chege Naomi Wanjiru alias Naomi Wanjiru while the death certificate names her as Chege Naomi Wanjiru.
 7. He is categorical that the signature on the consent in support of the summons for confirmation are forgeries. The signatures on the affidavit sworn in support of the summons are forgeries.
 8. He avers that the administrators are concealing some of the assets of the deceased and that the other beneficiaries have colluded to deny him, his rightful inheritance. The other properties include the Ghetto Cooperative plots duly allocated to all her surviving children.
 9. After numerous applications the Cause finally proceeded for hearing by viva voce below is a summary presented in Court.
 10. PW1 Elizabeth Wanjiku Chege, the 1st born daughter of the deceased. Plot No. 60 Huruma is sole asset of the deceased at the time of her death intended to benefit them all. She avers testified that since the deceased's death, the Protessor is the only one collecting the rent and that they ask that the property be sold and proceeds from the sale be shared among them equally with the daughter of their deceased sister, Esther Nyambura 'Rehema' who is the mother of Salma. She would like for the Protessor to account for the rental income he has been collecting- of Kshs. 4500 per unit for 10 years 8months. She seeks for their grant issued on 09.05.2019 be confirmed.
 11. On cross examination she stated that Esther Nyambura (deceased) was her younger sister, she constructed units on the Plot No. 60 and that she is survived by a daughter Salma Ituma. That in Succession Cause No. 1913 of 2012, she was allocated 3 units on the plot as evidenced in the Affidavit dated 30.09.2019 and thus Salma should be given her share. She confirmed that the Protessor is the last born, who came into the home in 1978, and does not recognise the other petitioners and does not understand his relationship with them.
 12. She asserted that the Protessor was born a twin (twin passed away) in 1975 at KNH and that they were living in a rental house in Uthiru at the time of his birth. She denied that the Protessor added any construction to the plot, as the existing units are those constructed by the deceased. That he only rented them out and that it is not true that their mother gave him a place to construct.
 13. That at the time of death of the deceased the Protessor was living on the plot having moved there from Kibera with his wife and children. She confirmed that she was aware that there was a succession dispute between the deceased and her deceased sister (Salma's mother) but she did not know how the matter ended.
 14. She denied that Kikuyu custom allowing a lastborn preference of the others did not apply as they were not born of the same father and denied that the deceased had said that the protessor should be removed from the plot.
 15. On reexamination she reasserted that the only asset is the plot at Huruma and that when they moved to this property, the Protessor was a young boy.
 16. PW2 Simon Kimani Chege, He is the 4th born of the deceased who died having only 1 asset, the plot no. 60 Huruma. That since the death of the deceased, they have been denied access to their share of the plot by the Protessor. That soon after the deceased's death, the Protessor broke into the house and took the documents and has since been collecting rent from the units on the plot. He proposes that all 5 beneficiaries get a share of the estate- that the plot be sold since the Protessor has made it impossible for them to share. He asks that the Protessor be compelled to account for the rent he has been collecting.



17. On cross examination he confirmed that the plot is the sole asset of the deceased and that Esther Nyambura was his sister who contributed to the construction of the units on the plot and that she is survived by Salma Ituma. He is aware that Salma was awarded 3 units in the succession cause. He proposes that the units be shared equally. That Esther Nyambura collected rent in the life time of their mother. That he does not challenge the entitlement of Salma.
18. In 1984 there was a fire in the Ghetto and that he had a market stall in the village. That he was imprisoned in 1983 for creating a disturbance while drunk and not for assaulting their mother as the Protestor alleged and released in 1984 after which he moved to where he currently resides. That the church constructed a semi- permanent home for their mother. That the Protestor came to the home with his wife and children, close to 6 months before their mother died. That at the time of their mother's death there was a case pending in relation to the land in this matter and that at the time of their mother's death this was the only property she had.
He denied knowledge of plot no. 88 that belonged to their brother Chege.
19. On reexamination he denied that his documents on record have forged signatures and that he assaulted the deceased. He asserts that plot no. 88 belonged to their deceased brother and not the deceased
20. PW3 Hellen Njeri Chege, the 3rd born daughter of the deceased. At the time of her death the deceased owned plot no. 60 Huruma as the only asset. That the Protestor has been collecting rental income from the property. She prays that the summons be confirmed and that the plot be sold and proceeds be shared equally. Further that the benefits the Protestor has been collecting in rent should be shared among them equally.
21. On Cross Examination she confirmed that Esther is her deceased sister who constructed some of the units on the plot and is survived by Salma Ituma. That she is aware that Salma was awarded 3 units in the succession cause and does not challenge her entitlement. That since 2014 she has not collected any rent.
22. She denied that the deceased gifted her a plot at Ghetto Cooperative. And that in 1984, the deceased acquired a property at Ghetto Cooperative which she divided for all of them. That her son lived at the deceased's home in Huruma until her death when the Protestor evicted them. That the deceased ailed for a long time, during which time she and her son cared for her and that the Protestor and his family came to Huruma from Kibera and stayed in a different unit when the deceased was in critical condition.
23. She denied that the deceased gave her a plot in Kamulu that she sold. She is aware of the succession cause for her deceased sister but that she did not participate in it.
24. On reexamination she stated that the asset should be sold and proceeds be shared equally and that the rental income that has been collected by the Protestor before coming to the home in Huruma be shared.
25. PW4 Salma Ituma she is the deceased's grandchild. That her father, Moses Ituma, filed a succession cause when she was a minor, claiming her deceased's mother's interest in the plot No. 60 in Huruma. That she is aware that she was awarded 3 units and that her father had informed her that they could not go to Huruma as the Protestor had threatened their lives. That she has not collected any rent from the plot. That she agrees that the plot be sold and that she is awarded her rightful share, equal to value of 3 units. That she has assented the confirmation of grant.
26. On cross examination she confirmed that she is aware that her mother and grandmother contributed to the development of the plot. She has not been able to collect rent from the 3 units allocated to her. Her father informed her that the Protestor has been collecting rent. That she is not aware of the status of the succession cause on her mother's estate.



27. That her grandmother did not have any other property and that she is not aware that her mother was given a property in Ghetto Cooperative. That when she visited her grandmother the Protestor was not living with her. That her mother had 3 units of the plot and that she did not collect any rent and was barred from accessing the plot by the Protestor. That she does not know whether the Protestor was living with the grandmother
28. The Protestor did not prosecute his Protest as he declined to proceed when the protest came for hearing.

Summary Of Submissions

29. Administrators Submissions dated 1st December 2025. The following are the issues framed for determination-
 - a. Whether the Grant of Letters of Administration dated 9th March 2018 should be duly confirmed and the property sold and divided equally among the beneficiaries;
 - b. Whether this Honourable Court should make necessary orders to preserve the Estate.
30. It is submitted that the deceased died Intestate and the applicable law is Section 38 of the *Law of Succession Act*. There is no dispute as to the beneficiaries of the Estate of the deceased. Reference is made to the decision in re Estate of Kipyegon Arap Chepkwony(Deceased) [2025] KEHC 1239 (KLR). It is proposed that the property be sold and proceeds be shared equally among the beneficiaries. It is submitted that the rent collected by the protestor be considered in determining his share of the proceeds of sale.
31. On the 2nd issue, it is submitted that the continued collection of rent by the protestor amounts to intermeddling and he should be enjoined from collecting the rent from the estate property; Plot No. 60 Huruma Fire Victims (Ghetto) pending distribution
32. Submissions of 5th Petitioner dated 9th February 2026. The issues for determination as framed as
 - a. Whether the 5th Petitioner is entitled to a share of the deceased's estate
 - b. Whether the grant of letters of Administration dated 9th March 2018 ought to be confirmed by the Honourable Court and mode of distribution
33. It is submitted that since her mother, who is a child of the deceased is dead she by law can step into the shoes of her mother and inherit directly from the deceased. Reference is made to the decision in Re Estate of Wahome Njoki Wakagoto [2013]eKLR.
34. It is submitted that the Estate of the deceased falls to be distributed under Section 38 of the *Law of Succession Act* and reference made to the decision in Re Estate of John Musambayi Katumanga (Deceased) [2014]eKLR AND Stephen Gitonga M'Mutithi v Faith Ngira Murithi[2015]eKLR
35. It is submitted that the rent that has been collected by the Protestor over the years be discounted from the proceeds of the estate asset.
36. Protestor's Submissions dated 8th January 2026. He reiterates his averments in his affidavit of protest. Note is that no legal authorities are cited in support of his submissions. It is noted however that his position is that this asset should vest him as during the life time of the deceased she gifted the other beneficiaries portions of her land as a member of Ghetto Cooperative Society. He reiterates his averments that the Summons is tainted with irregularities, fraud and forgery.



Analysis And Determination

37. Having considered the pleadings herein alongside the evidence and submissions filed herein, I discern the issues for determination to be-
- a. How the Estate of the Deceased should be administered?
 - b. Arising from the determination of (a) above what are the Consequential orders-
38. On the 1st issue it is not contested that the deceased died intestate. Section 34 defines intestacy as –
34. Meaning of intestacy
- A person is deemed to die intestate in respect of all his free property of which he has not made a will which is capable of taking effect.
39. It is also agreed that at the time of her death the deceased was survived only by her children and no spouse. The Applicable law is therefore Section 38 of the Law of Succession Act which provides-
38. Where intestate has left a surviving child or children but no spouse
- Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or shall be equally divided among the surviving children.
40. Having determined the applicable law, the next issue for determination is the ‘free estate’ of the deceased available for distribution. There is evidence that the decision is the owner of Plot No. 60 Huruma Fire Victims (Ghetto)
41. The Protestor on his part has contended that he is the sole beneficiary of this asset and that during her life time the deceased gifted his siblings her other asset. There is no evidence placed before me of the existence of this other asset or the deceased’s ownership of the asset. I find therefore that the asset of the deceased available for distribution is Plot No. 60 Huruma Fire Victims (Ghetto)
42. The beneficiaries of the deceased are not in contest as there is consensus that it is the children of the deceased, namely
- i. Elizabeth Wanjiku Chege- Daughter
 - ii. Hellen Njeri Chege- Daughter
 - iii. Peter Chege- Son
 - iv. Simon Kimani Chege- Son
 - v. Esther Nyambura Chege (Deceased)- survived by her daughter Salma Ituma
 - vi. Tony Kamau Wanjiru- Son
43. The inclusion of Salma Ituma is supported by legal precedent including in the case of Re Estate of Wahome Njoki Wakagoto [2013]eKLR, where the Court held-
- Under Part V, grandchildren have not right to inherit their grandparents who die intestate after 1st July 1981. The argument is that such grandchildren should inherit from their own parents. This means that the grandchildren can only inherit their grandparents’ indirectly through their own parents, the children of the deceased. The children inherit first and thereafter grandchildren inherit from the children. The only time grandchildren inherit



directly from their grandparents is when the grandchildren's own parents are dead. The grandchildren step into the shoes of their parents and take directly the share that ought to have gone to the said parents.

44. The Administrators propose that the asset be sold and proceeds shared equally among the beneficiaries. All the beneficiaries are agreed to this proposal except for the protestor. Given the long and tortuous history of this matter, I am of the view that the sale and division of the proceeds will bring this matter to closure. I therefore direct that the property Plot No. 60 Huruma Fire Victims (Ghetto) be sold and the proceeds be sold equally.
45. Provided that in arriving at the share of the Protestor, the administrators will compute rent collected by him since the death of the deceased and discount this from his share.
46. In conclusion this are the final orders
 - a. The Grant issued to the Administrators on 9th May 2018 is Confirmed
 - b. The Beneficiaries of the Deceased are
 - i. Elizabeth Wanjiku Chege- Daughter
 - ii. Hellen Njeri Chege- Daughter
 - iii. Peter Chege- Son
 - iv. Simon Kimani Chege- Son
 - v. Salma Ituma- grandchild
 - vi. Tony Kamau Chege- Son
 - c. The Estate of the Deceased comprises-
Plot No. 60 Huruma Fire Victims (Ghetto)
 - d. The mode of Distribution is the property Plot No. 60 Huruma Fire Victims (Ghetto) shall be sold and proceeds shared equally among the 6 Beneficiaries
 - e. Provided that in determining the entitlement of the Protestor Tony Kamau Chege, the Administrators will deduct rent collected by him from the death of the deceased until sale of the property.
 - f. To facilitate the sale, the Administrators will engage the Government Valuer to Value the asset.
 - g. The asset will be sold within 90 days of receipt of the report of the report of the Government valuer and paid into the Estate Account to be opened by the Administrators.
 - h. The Administrators will transmit to the Beneficiaries their respective shares within 45 days of receipt of the proceeds of sale.
47. On costs, each party will bear their own costs.

It is so ordered

SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 20th DAY OF FEBRUARY, 2026.

P M NYAUNDI

HIGH COURT JUDGE



In the presence of:

Fardosa Court Assistant

Ms. Nekoye for Administrators

Ms. Mumbi holding brief for Ms. Mworara for 5th Beneficiary

Tony Kamau Wanjiru Protestor

