



In re Estate of Kamau Esther Wangari (Deceased) (Succession Cause E3604 of 2022) [2026] KEHC 1490 (KLR) (Family) (13 February 2026) (Ruling)

Neutral citation: [2026] KEHC 1490 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE E3604 OF 2022
PM NYAUNDI, J
FEBRUARY 13, 2026
IN THE MATTER OF THE ESTATE OF KAMAU ESTHER WANGARI (DECEASED)

RULING

Introduction

1. Vide Summons dated 1st July 2025, the Applicants herein seek confirmation of Grant issued to Isaack Maina Kamau & Sarah Wangui Kamau (Administrators). It is proposed to distribute the estate as per attached schedule of distribution dated 1st July 2025. The Consent is executed by 5 children of the deceased namely Isaac Maina Kamau, Hiram Mwangi Kamau, Eunice Wairimu Kamau. The family of their deceased brother has not signed the consent.
2. Lydia Wanjiru Kibe the widow to the deceased son (John Kibe Kamau) has lodged an affidavit of Protest sworn on 22nd July 2025 in which she proposes that the estate be distributed in accordance with paragraph 5 of her affidavit. The Protestor contends that the administrators have excluded known assets of the deceased. The point of departure between the proposal by the protestor and the administrators is that whereas the administrators propose to sell the assets and distribute the proceeds amongst the beneficiaries, the protestor proposes that they be equally divided.
3. Further the administrators have made provision for settlement of debts and transmission fees. The Protestor has not. The administrators make provision for the estate to be divided among the siblings of the deceased, the protestor claims a stake by seeking that the share of her deceased husband be held in trust by her Son, Ian Ndegwa Kibe for herself and his children (Esther Wangari Kibe and Samuel Kamau Kibe).
4. The Application was canvassed via written submissions. The Submission of the Administrators are dated 14th November 2025. It is denied that the following comprise the estate of the deceased and submitted that the protestor has not adduced evidence to establish that they were owned by the deceased.
 - a. LR NO. Samburu/ Mwingiri Block 4/510



- b. Monies in KCB BANK Account No. 1298xxxxxx
 - c. Rent in Plot No. 36 Kangari Market Plot No. S46C, Kariobangi Markey
 - d. Monies in KCB Bank Account No. 1113xxxxxx
5. It is proposed to distribute the estate in the manner proposed in the affidavit in Support of the summons.
6. The Protestors submissions are dated 21st November 2025. She contends that she is not keen to sell her share and that therefore the parcels of land should remain intact.

Analysis and Determination

7. Having considered the pleadings and submissions filed, I consider the issues for determination as-
- a. What assets comprise the estate of the deceased?
 - b. Who are the beneficiaries of the Estate of the Deceased?
 - c. What are the respective shares of the rightful beneficiaries?
 - d. What if any are th consequential orders
8. The parties agree that the following properties comprise the Estate of the Deceased.
- a. Mitubiri/ Wempa Block 1/ 7580
 - b. Mitubiri/ Wempa Block 1/7581
 - c. Loc.2/Mairi/720
 - d. Loc.2/Mairi/721
 - e. Loc. 2/ Kangari/ 709/36
 - f. Loc. 2/ Kangari/ 660
 - g. Loc. 2/ Kangari/ 2808
 - h. Loc. 2/ Kangari/ 2809
 - i. Unaitas Sacco Kangari Branch account number 1008xxxxxx
 - j. Plot No. Kariobangi S46C
 - k. Langata developers Ruai Plot b348
 - l. Monies in KCB Bank Account No. 1113xxxxxx
 - m. Monies in KCB Bank Account No. 1108xxxxxx
 - n. Monies in KCB Bank Account No. 1133xxxxxx
 - o. KTDA Tea Leaves Account No. MK05xxxxx Makomboki Tea Factory
 - p. KTDA Tea Leaves Account No. MK008xxxxx Makomboki Tea Factory
 - q. KTDA Tea Leaves Account No. MK06xxxxx



9. The protestor submits that the following assets also comprise the estate of the deceased and therefore should be included for distribution-
 - a. LR No. Samuru/ Mwingiri Block 4/510
 - b. Monies in KCB BANK account No. 1298xxxxxx
 - c. Rent in Plot NO. 36 Kangari Marke
 - d. Rent in Plot No. S46C
 - e. Monies in KCB BANK account No. 1113xxxxxx
10. With regard to LR No. Samuru/ Mwingiri Block 4/510, the protester has presented a copy of green card that bears the name of Isaac Maina Kamau and Sarah Wangui Kamau as the registered owners. She claims that it originally belonged to the deceased, and the two fraudulently transferred it to themselves. Given that the asset is not in the name of the deceased, it is not available for distribution until the ownership by the deceased is established.
11. The bank statement in relation to KCB BANK account No. 1298xxxxxx is not in the name of the deceased, by parity of reasoning it is not available for distribution.
12. She presents a rent payment receipt bearing name of the deceased for Plot No 36 Kangari as proof of ownership. This plea must fail. This is not proof of ownership.
13. Consequently, I find that the properties of the estate available for distribution are those enumerated in paragraph 8.

Who are the beneficiaries of the Estate.

14. It is common ground that the deceased had 6 children. All are surviving except for John Kibe, the deceased husband of the Protestor and father to her children. It is conceded that the Protestor is the daughter-in-law of the deceased. The issue is whether she should be included as a beneficiary of the estate of the deceased. The standing of a daughter in law in relation to the estate of a deceased parent law was enunciated by W. Musyoka J, in the case of Re Estate of Cecilia Wanjiru Kibicho(Deceased) (2016) eKLR, as follows:
 - (20) I should also add that a daughter-in-law is not listed in section 29(b) of the Act as being among persons who may move the court under section 26 for reasonable provision and who the court may declare to be a dependant.....
 - (26) The applicant in the confirmation application is a daughter-in-law of the deceased, by dint of her having married the deceased's son, She is not a blood relative of the deceased. She, therefore, does not qualify to be among the survivors of the deceased as defined in Part V. She is, consequently, not entitled to a share in the deceased estate. However, her children with the deceased's son would be blood relatives of the deceased in their capacity as grandchildren of the dead.
15. The Protestor does not claim that she is a dependant on the deceased. Her situation is distinct from that of the grandchildren of the deceased, who by law step into the shoes of their father and are entitled to his share of the estate.
16. The beneficiaries of the Estate are
 - a. Isaac Maina Kamau



- b. Hiram Mwangi Kamau
 - c. Eunice Wairimu Kamau
 - d. Sarah Wangui Kamau
 - e. Irene Njeri Kamau
 - f. Children of John Kibe Kamau (deceased) - Namely, Esther Wangare Kibe, Samuel Kibe and Ian Ndegwa Kibe.
17. What are the respective shares of the rightful beneficiaries? In the alternative, how the estate should be distributed. Section 38 of the *Law of Succession Act* provides the formula-
- S.

38 Where an 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.

18. The proposal by the administrators is in consonance with the above provision, save that the share of the deceased son, John Kibe Kamau, will devolve to his three children in equal shares. I agree with the administrators that given the size of the parcels of land, it would be better to sell and divide the proceeds.
19. Consequently, the grant issued herein is hereby confirmed. The Estate will be distributed in accordance with paragraph 4 of the supporting affidavit of the summons for confirmation. The share of the deceased brother John Kibe Mungai will devolve to his Children in equal shares.
20. The administrators will finalise transmission within 6 months.
21. Because of the relationship between the parties, there shall be no order as to costs.
22. Parties at liberty to appeal. The party exercising right of appeal to do so within 30 days.

It is so ordered.

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI THIS 13TH DAY OF FEBRUARY 2026.

P. M NYAUNDI

HIGH COURT JUDGE

In the presence of:

Fardosa Court Assistant

Thuku and Kurauka for Applicant

Ms. Kinyua for beneficiary – Lydia Wanjiru Kibe

