



In re Estate of Teresiah Wairimu Kamau (Deceased) (Succession Cause 125 of 2016) [2026] KEHC 1162 (KLR) (6 February 2026) (Ruling)

Neutral citation: [2026] KEHC 1162 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
SUCCESSION CAUSE 125 OF 2016**

A MSHILA, J

FEBRUARY 6, 2026

IN THE MATTER OF THE ESTATE OF TERESIAH WAIRIMU KAMAU (DECEASED)

RULING

Background

1. The Grant of Letters of Administration for the estate of the deceased's herein who died on 19/7/1983 was issued to John Thuo R. Kamau And Joseph Karuri Kamau (deceased) on 12/10/1993.
2. Subsequently, John Thuo R. Kamau The surviving administrator of the estate of the deceased herein filed the Summons for Confirmation of Grant dated 27/7/2018 and brought under Section 71(1 & 2) of the *Law of Succession Act*.
3. The Applicant sought for orders;-
 - a. That the Grant of Letters of Administration issued to John Thuo Kamau And Joseph Karuri Kamau (deceased) on 12/10/1993 and confirmed on 26/5/1994 be amended to remove the name of the deceased Administrator.
 - b. That the Grant of Letters of Administration be confirmed.
4. The Summons is based on the grounds that the previous Confirmation was set aside by consent hence the current application and that there is need to amend the grant so as to remove the deceased administrator.
5. In his affidavit in support of the Summons for Confirmation of Grant, John Thuo R. Kamau stated that his co-administrator Joseph Karuri KamaU is deceased hence the need to remove his name.
6. That Parcel NO. Limuru/Kamirithu/866 measuring 0.44 Ha was originally part of LR NO. Limuru/Kamirithu/228 registered in the name of Reminjo Kamau who died on 12/9/1974 and after his death Succession Cause No. 10 Of 1977 Was Filed Where His Four Sons Namely Gachuki Reminjo, Michael Thuo (deceased), John Thuo R. Kamau And Joseph Karuri Kamau (deceased) got equal shares.



7. Further, he deposed that Parcel No. Limuru/Kamirithu/866 that remained was registered in the name of the deceased herein who was to hold it in trust for John Thuo R. Kamau And Joseph Karuri Kamau the two last born sons as provided in the WILL hence the court was urged to confirm the grant and distribute the estate as follows:-

List Of Property	Share Of Heirs
Lr No. Limuru/Kamirithu/866	John Thuo R. Kamau Salome Wanjiku Karuri wife of Joseph Karuri Kamau

8. He claimed that their father intended for them to have the land since he had not paid dowry for them hence the gift and that they had lived on the property since 1968 where they had developed permanent structures and the Protestors had never raised an issue.
9. Salome Wanjiku Karuri the wife to the deceased's son the late Joseph Karuri Kamau filed her supplementary affidavit dated 19/11/2018. She deposed that the late Reminjo Kamau distributed his estate to his sons who took possession before he met his demise. Together with her late husband they have resided on the suit property for more than 50 years when her late husband and son are buried without any dispute as such the Respondent's claims are actuated by greed and malice. Lastly, that the suit property was given to her late husband and John Thuo Kamau by their late father as he had not paid dowry for them according to the Kikuyu custom.
10. Joseph Gachuki Kamau filed his Affidavit of Protest dated 4th November, 2019. He deposed that he is the deceased's eldest son and that the Respondents have moved the court to share the deceased's estate at the exclusion of the other siblings. Upon the demise of their father, the estate was duly distributed and everybody received their share as per the judgment dated 5/5/1977. The instant application before court is the distribution of their mother's share as such every son should get a share. That the other assets belonging to the deceased herein have been excluded in these proceedings.
11. Elizabeth Waithera Gichugu a daughter of the deceased filed her affidavit dated 13/2/2020 where she stated that before her father's demise, her father who was the original owner of Limuru/Kamirithu/228 summoned all his children and expressed his wish as to the distribution of his estate and that he had left behind a WILL dated 30/9/1972. She contended that her father's wishes were that his sons should share the parcel of land equally with each getting 1.53 acres and the remaining 1 acre to be held by the deceased herein for her 2 last born sons as no dowry had been paid on their behalf by their late father. Her late father's succession was done according to his wishes and a usufruct created in favour of the deceased's herein as a life interest and upon her demise a transfer was done to the Respondents without any opposition and that the Protestors were aware of the same and never raised any objection.
12. James Kamau Thuo filed his Affidavit of Protest dated 20/7/2022 as the eldest son of the late Tabitha Wanjiru Thuo a beneficiary of the deceased's estate. He deposed that the Respondents have moved the court to share the deceased's estate at the exclusion of the other siblings. The claim that there existed a WILL and that the deceased herein was to hold parcel no. 866 in trust was said to be untrue as no trust is provided for in the succession of the late Reminjo.
13. The Protests were heard by way of viva voce evidence and thereafter parties filed their written submissions.



Petitioner's Submissions

14. The Petitioner submits that the parcel of land subject of this cause was registered in the name of the deceased as a life interest and as a trustee of the two sons per the wishes of the deceased. That a customary trust was created in favour of the two youngest brothers. It was submitted that all the survivors of the deceased have signed consent to the mode of distribution. The court was also urged to allow the prayer to amend and remove the deceased administrator Joseph Karuri Kamau who died on 2/9/1995 as such the prayer is not opposed.

Beneficiary's Submissions

15. It was submitted that the deceased's herein only had a life interest in the property of her husband to which a WILL had been written stating how the estate was to be divided. The late Reminjo had directed how the remaining part of his estate would be divided upon his demise and that of his wife. Further, the beneficiary, submitted that under the Kikuyu Customary Laws, a father would pay dowry for his sons. The court was urged to distribute the estate as proposed and for Salome to hold her share in trust for her children as they reside on the suit property. It was submitted that the law applicable is the Kikuyu Customary Law as the late Reminjo died before the enactment of the [Law of Succession Act](#).

Issues For Determination

16. After full hearing of this cause and reading the parties respective pleadings and written submissions this Court has framed the following issues for determination;
- i. Whether the Protestors are estopped from disclaiming the contents of the WILL
 - ii. Whether to revoke the Grant issued to John Thuo R. Kamau And The Late Joseph Karuri Kamau.
 - iii. The mode of distribution of the estate of Teresiah Wairimu Kamau (deceased).

Analysis

Whether the Protestors are estopped from disclaiming the contents of the WILL

17. The evidence of John Thuo Kamau (DW1) was that the property known as Parcel No. Limuru/Kamirithu/228 was registered in the name of Reminjo Kamau who died on 12/9/1974. That prior to his demise Reminjo Kamau had shown all his sons where to build and establish their homes.
18. That after his death Succession Cause No. 10 OF 1977 was filed where his four sons namely Gachuki Reminjo, Michael Thuo (deceased), John Thuo R. Kamau And Joseph Karuri Kamau (deceased) got equal shares. The deceased Reminjo left a portion for his wife Teresiah Wairimu Kamau (deceased) with instructions in the WILL that the said portion belongs to Kigamba and Matia as he did not pay their dowry according to the Kikuyu Customary Law.
19. The portion left for Teresiah Wairimu Kamau the deceased herein was Parcel No. Limuru/Kamirithu/866 measuring 0.44 Ha which was originally part of Parcel No. Limuru/Kamirithu/228 which is now the subject matter in this instant succession cause.
20. Joseph Gachuki Kamau (PW1) in his testimony testified that he wants the suit property to be divided among the four sons of the deceased herein.



21. It is also his evidence that John Thuo and the widow of Joseph Karuri one Salome Wanjiku have been living on the suit property for many years.
22. James Kamau Thuo (PW2), a son of the late Michael Thuo, the deceased's son herein testified that he wished for his grandmother's assets to be distributed among her four sons equally. Further that his father had not raised any claim in respect of his father's estate. He denied the claim that his siblings were not interest in a share of the estate.
23. The WILL in the SUCC. CAUSE NO. 10 of 1977 named and provided for all the beneficiaries named therein. They all willingly accepted the WILL together with the condition that Reminjo's share would be for his widow, the deceased herein who would hold it on behalf of Kigamba and Matia the Administrators herein.
24. The beneficiaries took their inheritance and never questioned or challenged the condition in the Will In Succession Cause No.10 of 1977 on who were the ultimate beneficiaries of the portion described therein as 'my share' which was distributed to Teresiah Wairimu Kamau the deceased herein.
25. The Protestors did not challenge or renounce the will and having acceded to it in Succession Cause No. 10 of 1977 they are now estopped from disclaiming the contents of the will dated 30/9/72.
26. This Court finds the Protest to be devoid of merit and can only be deemed as being an afterthought.

Whether to revoke the Grant issued to John Thuo Kamau And The Late Joseph Karuri Kamau.

27. The applicable law is found at Section 76(e) of the *Law Of Succession Act* which reads as follows;-
 76. Revocation or annulment of grant A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—

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...

e. that the grant has become useless and inoperative through subsequent circumstances.
28. The Grant of Letters of Administration for the deceased's estate herein was issued to the two administrators being John Thuo R. Kamau and the late Joseph Karuri Kamau on 12/10/1993 as such the death of one of the administrators, the late Joseph Karuri Kamau who died on 2/9/1995 renders the grant inoperative causing the same to become useless warranting the said grant to be revoke and a fresh grant to be issued to the surviving administrator one John Thuo R. Kamau.

The mode of distribution of the estate of Tabitha (deceased)

29. Having found the Protest to be devoid of merit the only issue left is the distribution of the estate of the deceased herein; the Respondent filed a Supporting Affidavit dated 27/7/2018 in which he outlines the proposed mode of distribution in paragraph 8.
30. The same is hereby allowed in terms of the said paragraph 8 conditional to the beneficiaries of the estate of the late Joseph Karuri Kamau taking out their Grant of Letters of Administration.

Findings And Determination

31. This Court makes the following findings and determination;



- i. This Court finds the Protest to be devoid of merit and it is hereby dismissed with no order as to costs as this is a family dispute
- ii. The Grant of Letters of Administration issued to John Thuo Kamau And The Late Joseph Karuri Kamau is hereby revoked and fresh Grant to issue in the sole name of John Thuo R. Kamau.
- iii. The Grant be and is hereby confirmed in terms of paragraph 8 of the Supporting Affidavit of John Thuo R. Kamau dated 27/7/2018.
- iv. The beneficiaries of the estate of the late Joseph Karuri Kamau are hereby directed to initiate the process of Petitioning for a Grant of Letters of Administration to his estate.
- v. Parties at liberty to apply

Orders Accordingly.

DATED SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 6TH DAY OF FEBRUARY, 2026.

A. MSHILA

JUDGE

In the presence of;

Sanja – Court Assistant

Njuguna - For the Protestor

Mrs. Muhoho for the petitioner/Administrator - John

Miss Wambua for the beneficiary- Salome

