

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA
SUCCESSION CAUSE NO. 53 OF 2001

IN THE MATTER OF THE ESTATE OF WAFULA WASIKE AGUNDA
(DECEASED)

RULING

1. The deceased herein died on 1st September 2000. A form, filled by the Chief of Nasewa Location, dated 18th July 2001, indicates that he was survived by 1 widow, Victoria Wafula; and 10 sons, Jerry Wafula, John Wafula, Fidel Wafula, Jospheh Wafula, Alfred Wafula, Vitalis Wafula, Godric Wafula, Wesonga Wafula, Otieno Wafula and Wandera Wafula Nalubayo.
2. Representation to his estate was sought by James Agunda Wafula and John Nambuye Wafula, in their capacities as sons. The 11 individuals listed in the Chief's form, being the 1 widow, Victorina Wafula, and the 10 sons, Jared Anguda Wafula, Wandera Wafula, John Wafula, John Odhiambo Wafula, Joseph Wafula, Vitalis Wasike Wafula, Godrick Oduory Wafula, Wesonga Wafula, plus 1 more individual, identified as Aggrey Ouma, a son. The deceased was said to have died possessed of a property described as Bukhayo/Nasewa/1453. Letters of administration intestate were made to Jared Agunda Wafula and John N. Wafula, on 2nd December 2002, and a grant was duly issued, on even date.
3. What I am called upon to determine, is a summons for confirmation of grant dated 1st September 2025. It listed the 11 individuals, listed in the petition, as survivors of the deceased, and Bukhayo/Nasewa/1453 as the property that the deceased died possessed of. It proposed distribution of the said property amongst 13 individuals, identified as Andera Wafula Nakhayo, Chrispinus Oduory Okhonjo, Silvanus Obuyu Oduory, Vincent Ombithi, John Okumu, John Nambuye Wafula, Milton Oundo Magero, Caroline Juma Agunda, Vitalis Wasike Wafula, Godrick Oduory Wafula, Patrick Ochieno Wafula, Wesonga Wafula and John Odhiambo Wafula, at different acreages. Jared Agunda Wafula was said to be dead, and it was proposed that his share devolves upon his widow, Caroline Juma

Agunda. The share of the surviving widow, Victorina N. Wafula, was proposed to be devolved upon Patrick Otsieno Wafula.

4. A consent, in the form 38, was filed simultaneously with the application. Unfortunately, it would be of little utility, as it does not talk about consenting to the distribution proposed, but to the administration of the estate being granted John Nambuye Wafula. It would be of utility only for the purpose of conveying the administrator, in terms of section 88 of the Law of Succession Act, Cap 160, Laws of Kenya.
5. When the application came up for hearing on 21st October 2025, the following were in Court: Jared Agunda Wafula, John Odhiambo Wafula, Wandera Wafula, Vitalis Wafula, Godrick Oduory Wafula, Wesonga Wafula, Otieno Wafula, Patrick Wafula. I interviewed all of them, and they appeared to all agree with the proposals made by Jared Agunda Wafula, the applicant. Aggrey Ouma was not in attendance, and I directed that he be availed on 19th November 2025. On 19th November 2025, it was indicated that he should appear online. He never did, and I adjourned the matter to 2nd December 2025. On 2nd December 2025, I was informed that he was unavailable, but had indicated that he had his own *boma* elsewhere, and that he had said that he did not have to come to court.
6. On 21st October 2025, John Nambuye Wafula, the applicant explained that Andera Wafula Nakhayo was a son of the deceased, who was also identified as Wandera Wafula. He explained further that Chrispinus Oduory Okhonjo was given land by the said Andera Wafula Nakhayo. He stated that Silvanus Obuyu Oduory had bought land from the said Andera Wafula Nakhayo, and so had Vincent Ombithi. He stated that he, John Nambuye Wafula, had sold land to John Okumu Oriama and Milon Oundo Magero. Godrick Oduory Wafula explained that he had dropped the name Godrick, and his new name was Wilson Oduor Wafula. Aggrey Ouma was said to be a son of the late Alfred Ouma Wafula. Patrick Otsieno Wafula explained that his mother, Victorina Wafula was old, and no longer able to use the land, hence the proposal that he should get her share.
7. As there appears to be unanimity, on the distribution proposed, the final orders shall be:

- (a) that I hereby confirm John Nambuye Wafula as the sole administrator of the estate herein;
- (b) that the estate shall be distributed in the manner proposed, in the application, dated 1st September 2025;
- (c) that a grant of letters of distribution intestate and a certificate of confirmation of grant shall issue, accordingly;
- (d) that the administrator has 6 months, to distribute or transmit the estate, in accordance with the terms of the certificate of grant, to be issued under (c) above;
- (e) that the matter shall be mentioned on 23rd September 2026, to confirm transmission of the estate, and completion of administration;
- (f) that each party shall bear their own costs; and
- (g) that, any party aggrieved, by the orders above, has leave of 30 days, to file appeal at the Court of Appeal, subject to filing and serving notice of appeal, within the timelines set out in the Court of Appeal Rules.

8. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT
BUSIA, THIS 9TH DAY OF FEBRUARY 2026.**

**W MUSYOKA
JUDGE**

Mr. Arthur Etyang, Court Assistant.

Mr. John Nambuye Wafula, the administrator, in person.