

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT KAJIADO**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO. E036 OF 2021**  
**IN THE MATTER OF THE ESTATE OF NAOMI NYAKIO PEARCE**  
**Alias NAOMI NYAKIO KITAMUNI (DECEASED)**

**MARY WAIRIMU LISINGU**  
**JOYCE NAILANTEL LESINGO**  
**SAMUEL NAMPASO LESINKO.....**  
**ADMINISTRATORS**

**VERSUS**

**DAVID WILLIAM ARTHUR.....**  
**OBJECTOR**

**DIRECTIONS**

1. Due for delivery today was the judgment in relation to the Objection dated 28.10.2021 and two applications by the administrators/ executors dated 6.11.2023 and 12.12.2023. The related *viva voce* hearing in respect of the objection and applications having commenced on 2.10.2024 before **Mutuku J.** was adjourned to 14.01.2025, by which date **Mutuku J.** had proceeded on transfer. Only the executors

had called one witness by that date. The record shows that the witness adopted the affidavits filed by the administrators/ executors in response to the Objection and in support of their applications as part of her evidence-in-chief and was thereafter cross-examined by the Objector.

2. Having taken over this matter, I directed on 24.03.2025 that further hearing resume on 15.05.2025 upon counsel for the administrators/executors, Mr. Njagi, having informed the court that *“only the cross-examination of the objector was outstanding”*. Indeed on 15.05.2025 the said Objector presented himself and was cross-examined.

3. Thereafter, submissions were filed, and a ruling date reserved. It was only as I prepared to write the decision that I noted from the handwritten notes by **Mutuku J.** of 2.10.2024 that, in fact the Objector had never given his evidence- in- chief and therefore had not adopted his evidence as contained in his various affidavits on the record. This is a serious omission, which if not promptly addressed could occasion prejudice to the Objector who has been acting in person.

4. In the circumstances, acting *suo motu*, this court will postpone its decision and re-open the matter to enable the Objector consider his affidavits on record both in this case and in Nairobi family **Miscellaneous Cause No: E120 of 2021** (which was earlier transferred to this court and housed in the instant file ) and to make a determination as to which affidavits he will adopt as his evidence -in -chief. In fairness and in the interest of justice, the court will allow the administrator/ executors' counsel to cross-examine the Objector, if he so desires.

**DELIVERED AND SIGNED ELECTRONICALLY AT KAJIADO  
ON THIS 5<sup>TH</sup> DAY OF FEBRUARY 2026.**



**C.MEOLI**  
**JUDGE**

**In the presence of:**

**For the Administrators/ Executors: Ms. Kirunja h/b for Mr. Njagi**

**Objector: in person**

**C/A: Lepatei**