



REPUBLIC OF KENYA



**In re Estate of Kamau (Deceased) (Succession Cause E123 of 2014)  
[2026] KEHC 3215 (KLR) (10 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3215 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE E123 OF 2014  
RN NYAKUNDI, J  
MARCH 10, 2026**

**IN THE MATTER OF ESTATE OF GRAE WAIRIMU KAMAU (DECEASED)**

**BETWEEN**

**MARY WAITHERA KINYANJUI ..... APPLICANT**

**AND**

**FRANCIES THONGO NDEGWA ..... RESPONDENT**

**RULING**

1. Before this court is summons brought to this court under Section 45 Section 47 of the [Law of Succession Act](#), and other enabling laws which seeks the following orders:
  - i. That: This application be certified urgent and be heard ex-parte in the first instance and inter-partes hearing be as court may direct.
  - ii. That all monthly rent for the estate properties be deposited in court try all the tenants on Huruma Plot No. 32, Eldoret Municipality/Block 14/1395: and Eldoret Municipality/ Block 141396 pending hearing and determination of the Application
  - iii. That pending the hearing and determination of this succession cause a joint interest earning account be opened in the name of the administrators at Kenya Commercial Bank, Eldoret Branch, or as the court may direct for the purposes of receiving and safeguarding all rental income accruing from the estate properties
  - iv. That all tenants occupying the estate properties known as Huruma Plot No. 52: Eldoret Municipality/Block 14/1395: and Eldoret Municipality/ Block 14/1396 be directed deposit all rental payments exclusively into the said joint interest-earning account.
  - v. That the Deputy Registrar of this Honourable Court do appoint a registered real estate agent to collect the rental proceeds from the properties comprising the estate of the deceased and any



other proceeds or income that may be realized from the properties comprising the estate of the deceased by the appointed agent.

- vi. That the appointed agent be authorized to collect the rental income from the estate properties without interference by the beneficiaries or administrators herein and their fees to be paid out of the rental income collected.
  - vii. That the Respondent be ordered to render a full and accurate account of all rental income collected from Huruma Plot No. 52; Eldoret Municipality/Block 14/395; and Eldoret Municipality/ Block 14/1396 from the date of appointment as administrator to date, and to deposit any monies found due into the joint interest-earning account.
  - viii. That no party or beneficiary shall collect, receive, or otherwise deal with rental income from the said estate properties outside the said joint account without leave of this Honourable Court.
  - ix. That this Honourable Court be pleased to issue any other or further order to facilitate true and transparent/ accurate account of the rental proceeds from the estate properties herein.
  - x. That the administrators be directed to file in Court periodic statements of account to rental income and expenditure as the court may deem fit
  - xi. Costs of this application be in the cause which application is made on the ground that
    - a. The estate of the deceased comprises income generating rental properties presently occupied by tenants and generating monthly rental income namely: Huruma Plot No 52 Eldoret /Municipality/Block 14/1395 and Eldoret Municipality/Block 14/1396
    - b. The Respondent is collecting monthly rental income from the estate properties and using it as personal property it is only fair that the same be preserved by depositing the rent in court pending the hearing of this Application
    - c. The Respondent has persistently refused and/or failed to cooperate in the opening of a joint bank account for the collection of rental income and in the joint appointment of estate agents to manage the estate properties, despite formal communication and requests,therebyfrustrating efforts to safeguard the estate.
    - d. Rent continues to be collected informally and without court-sanctioned structure and there is a real and imminent risk of further intermeddling of the estate.
    - e. The Deceased died on 11th June 2011 and a considerable part of the estate has been intermeddled and wasted by the Respondent's.
    - f. Unless this Honourable Court urgently intervenes and directs the opening of a joint interest-earning account in the names of the appointed administrators, the estate risks wastage, misappropriation, loss of income and unnecessary disputes among beneficiaries
    - g. It is in the best interest of justice and preservation of the estate that interim protective orders be granted pending the hearing and determination of the cause.
    - h. This Honourable Court has jurisdiction to issue preservative orders.
2. This application was canvassed by way of written submissions. It was the case for learned counsel Mr. Kariuki who invited the court to find that the first point of call is to invoke the provision of Section 76 of the Act to deal with the issue of the administration of the estate in which the administrators in the



grant of letters of administration do not see eye to eye occasioning the transmission to be held in limbo. Learned counsel further invited the court that the objection proceedings dated 18.12.2025 should be given a priority so that the administration of the estate be resolved once and for all before even the issue of the rentable cash receivables is determined by this court.

3. Whereas the Applicants learned counsel Mr. Ateka placing reliance under Section 45(1), 47, of the *Law of Succession Act*, and Rule 73 of the Probate and Administration Rules an order of preservation orders with regard to the collection of rent income from the deceased property so as to avoid wastage or dissipation. In his contention learned counsel on this issue cited the following authorities: Re-Estate of Solomon Kiguru Njuguna (deceased) Succession cause No 25 of 2022 (2023) KEHC 26943 (KLR), Re-Estate of Simon Kimendero (Deceased) (2020) eKLR

It was learned counsels contention that the objector has met the threshold for revocation of grant for the same has become in operative is far from being discharged within the provisions of Section 107(1), 108 & 109 of the *Evidence Act*. In learned counsel's further submissions he was of the view that the objector has not demonstrated fraud, concealment, defective proceedings, or any statutory ground warranting revocation. The allegation advanced amount to personal grievances rather than legal deficiencies in the grant process. Given the strength of multiple applications, learned counsel contended that revocation of grant under Section 76 of the Act should not be used to weaponize the entire proceedings of this estate which on the face of it is very protracted as between the beneficiaries.

4. This litigation story must be told to form the bedrock of determining the applications before this court. On the 1.4.2014 the petition in the matter of the estate of Wairimu Kamau now deceased pleaded in summation as follows:

We, Francis Thiongo Ndegwa and John Mwangi Ndegwa of P.O. Box xxxx Eldoret hereby Petition this Honourable Court for Grant of letters of Administration intestate of the estate of the above-named Grace Wairimu Kamau who died on the 11<sup>th</sup> June 2011. And say as follows:

The deceased died intestate domiciled in Uasin Gishu

We present this petition in our capacity as Sons

Every person having an equal or prior right to grant of representation herein has consented hereto (or has renounced such right or has been issued with a citation to renounce such right and apply for a grant of representation and has not done so). We will faithfully administer according to law all the estate which by law develops upon and vests in his personal representative of the deceased and we will render a just and true account of such estate whenever required by law so to do and we will when required by this court deliver up thereto the said grant. Signed by the above-named Francis Thiongo Ndegwa and John Mwangi Ndegwa.

In the presence of Eliud Kabata Mbugua of P. O. Box xxxx Eldoret and Ibrahim Mwaura Mwangi of P. O. Box 1171, Eldoret.

5. This petition involves a series of properties as evidenced by the annexures apparently which forms part of the intestate estate of the deceased. There is also evidence of various sale agreements entered into on diverse dates between one Francis Kiongo Ndegwa and Francis Cheruiyot dated 3<sup>rd</sup> day of July 2008 in respect of Uasin Gishu/Kimumu/5076, further there is another sale agreement made on 27<sup>th</sup> day of May 2009 as between Francis Thiongo Ndegwa with assignees Francis Kimeres Kiptalam and Everlyne Chemutai Kangogo with regard to parcel No. Uasin Gishu/Kimumu/5067, there is further a sale agreement between Francis Kiongo Ndegwa and Viola Ruto in respect of Kimumu Plot No.



163, further there is another sale agreement as between Francis Thiongo and Isaac Sergon in respect of LR NO. Uasin Gishu/Kimumu/5075. Similarly, there is another sale agreement between Francis Thiongo Ndegwa and William Kiprop Kangogo dated 28<sup>th</sup> March 2009. Similarly, there is another sale agreement between John Mwangi Ndegwa and Andrew Kipsang etc.

6. This litigation has not stopped there. On 31<sup>st</sup> May 2014 one Francis Thiongo Ndegwa and John Mwangi Ndegwa filed an application against Mary Waithera in which they pleaded as follows:

That pending the hearing of this summons interpartes this Honorable Court be pleased to issue a temporary Order of inhibition inhibiting the registration of any dealings with Land Parcels Nos.

- a. Uasin Gishu/Kimumu/4720 to 4743 which are all subdivisions of Uasin Gishu/Kimumu/162 which was originally property of the late Grace Wairimu Kamau.
- b. Uasin Gishu/Kimumu/5060 to 5082 which are all subdivisions of Uasin Gishu/Kimumu/16 which was originally property of the late Grace Wairimu Kamau.
- c. Eldoret Municipality/Block 12 (Kingongo) 3304 which was originally the property of the late Grace Wairimu Kamau.
- d. Kapsaret/Kapsaret Block 1 (Yamumbi) 289 which was originally the property of the late Grace Wairimu Kamau.
- e. Eldoret Municipality/Block 12/36 which was originally the property of the late Grace Wairimu Kamau
  - Soy/Soy Block 10/Navillus/1047
  - Eldoret Municipality/Block 14/1396
  - Solai/Ndungiri/Block 3 (Wanyororo “b”)/1529
  - Muigai Inn Plot Nos. W 29 & W 30
  - Huruma Plot No.152
  - Western Farmers 15/1654all properties of the late Grace Wairimu Kamau
- f. That Pending the hearing and final determination of this Succussion cause this Honourable Court be pleased to issue an Order of Inhibition Inhibiting the registration of any dealings with land Parcels Nos.:
  - i. Uasin Gishu/ Kimumu / 4720 to 4743 (24 plots total) which are all subdivisions of Uasin Gishu/Kimumu/162 which was originally property of the late Grace Wairimu Kamau
  - ii. Uasin Gishu/Kimumu/5060 to 5082 (23 plots total) which are all subdivisions of Uasin Gishu/Kimumu/163 which was originally the property of the late Grace Wairimu Kamau
  - iii. Eldoret Municipality/Block 12(kingongo)3304 which was originally the property of the late Grace Wairimu Kamau



- iv. Kapsabet/Kapsaret Block 1 (Yamumbi) 289 which was originally the property of the late Grace Wairimu Kamau
- v. Eldoret Municipality/Block 12/36 which was originally the property of the late Grace Wairimu Kamau
- vi. -Soy/Soy Block 10/Navillus/1047  
-Eldoret Municipality/Block 14/1396-  
Solai/Ndungiri/Block 3 (Wanyororo “B”)/1529  
-Muigai Inn Plot Nos. W 29 & W 30  
-Huruma Plot No.152  
-Western Farmers 15/1654 all properties of the late Grace Wairimu Kamau

7. The conflicts on this estate is yet to be settled given the level of truths and untruths being generated from among some of the beneficiaries themselves. I have in mind the statement by Mary Waithera dated 11<sup>th</sup> January 2026 in which she made certain disclosures in the following language:

In this statement of intent she applied for temporary orders of inhibition restraining the registration of any dealings in the inventory of the properties identified as hereinunder:

- a. Uasin Gishu/Kimumu/4720 to 4743 which are all subdivision of Uasin Gishu/Kimumu/162 which was originally property of the late Grace Wairimu Kamau
- b. Uasin Gishu/Kimumu/5060 to 5082 which are all subdivision of Uasin Gishu/Kimumu/163 which was originally the property of the late Grace Wairimuy Kamau
- c. Eldoret Municipality/Block 12 (Kingogo) 3304 which was originally the property of the late Grace Wairimu Kamau
- d. Kapsaret/Kapsaret Block 1 (Yamumbi ) 289 which was originally the property of the late Grace Wairimu Kamau
- e. Eldoret Municipality /Block 12/23 which was originally the property of the late Grace Wairimu Kamau
  - Soy /Soy Block 10/Nanvilus/1047
  - Eldoret Municipality/Block 14/1396
  - Solai/Ndungiri/Block3 (Nanyroror “B”)/1529
  - Muigai Inn Plot Nos W 29 &W 30
  - Huruma Plot No 152
  - Western Farmers 15 /1654. All properties of the Late Grace Wairimu Kamau.



The grounds are that the 1<sup>st</sup> and 2<sup>nd</sup> Petitioner are in the process of disposing of the properties to 3<sup>rd</sup> parties and are in the process of registering the same yet the succession cause has yet to be determined all to the detriment of other dependents who are entitled also to inherit from the Estate of the deceased.

The objector filed the petition for letters of Administration Ad Colligenda Bona under certificate of Urgency on 19.12.2011 when it became apparent to her that the estate of the late Grace Wairimu Kamau was still unadministered and some of her siblings were actually plundering it. The objector also noted that some of the deceased properties had changed hands during the lifetime of the late Grace Wairimu Kamau but the changes were suspect as they occurred at a time when the late Grace was unwell.

The Ad colligenda cause was dismissed by the court on 11.03. 2014 with the court citing that the issues are weighty and cannot be decided in an application for Grant ad colligenda bona defunct but within a petition for a full grant

Through the learned Judge in the ruling states that the noted some properties had been distributed to the petitioner and others, this position is highly contested by the objector who maintains that the deceased was suffering from a mental condition at the time of the alleged distribution and transfers. The orders is annexed as annexed "MW2"

Medical record annexed as MW3 show that the deceased suffered from a condition known as Senile dementia

Your Honour condition persisted until her untimely death on 11.06.2011. The deceased was survived by the following children:-

- a. Josephat Kamau- Deceased
- b. Mary Waithera –
- c. Francis Thiongo
- d. Naomi Wambui- Deceased
- e. John Mwangi -
- f. Anne Waruguru
- g. Paul Ndegwa- Deceased
- h. Daniel Ndegwa

Your Honor Josphat Kamau and Paul Ndegwa passed on without issues only Naomi Wambui who was a daughter of the deceased passed away leaving three issues namely:

- a. James Wanjohi
- b. Samuel Ndegwa
- c. Robert Mwangi all of whom were maintained by the deceased.

Accordingly, the deceased had the following properties which were transferred her name upon the demise of her late husband Samuel Ndegwa Kamau

- a. Eldoret Municipality/Block 12 (Kingongo) 3304
- b. Kapseret/Kapseret Block 1 (Yamumbi) 289
- c. Eldoret Municipality/Block 12/36



- d. Uasin Gishu/Kimumu/162
- e. Uasin Gishu/Kimumu/163
- f. Western Farmers 15/1654
- g. Huruma Plot No 152
- h. Soy/Soy Block 10 Navillus/1047
- i. Muigai Ini Plot No 1029
- j. Eldoret Municipality/Block 14/1396
- k. Solai/Ndungiri/Block 3/1529 Wanyororo “B”
- l. Muigai Ini-W29
- m. Muigai Ini- W30
- n. Peugeot P/UP 404 Reg. KWA 357
- o. Barclays Bank A/C No 030036000171
- p. 1 Posho Mill

Further, the following properties changed hands from the late Grace Wairimu Kamau during the period when she was already unwell and incapable of making any informed decision on her own

- a. Eldoret Municipality/Block 12 (Kingongo) 3304 which was transferred to Anne Ndegwa, the 1<sup>st</sup> interested party on 10.01.2006.
- b. Kapsabet /Kapsabet Block 1 (Yamumbi) 289 which has ended up in the name of Francis Thiongo Ndegwa and transfer done on 28.04.2011
- c. Eldoret Municipality/Bloc 12/36 which was transferred to Francis Thiongo Ndegwa on 29.04.2009
- d. Uasin Gishu/Kimumu/162 which was transferred to John Mwangi Ndegwa on 10.04.2008 and has now been subdivided into 23 plots namely from No.s 5060 to 5082.
- e. Uasin Gishu/Kimumu/163 which was transferred to Francis Thiongo Ndegwa on 31.03.2009 and has now been subdivided into 23 plots namely 5060 to 5082.
- f. Peugeot pickup 404 Reg No Kwa 357 is currently in the hands of Francis Thiongo Ndegwa.
- g. It has been established that Muigai Inn Plots Nos W20 and W30 have been sold off by some of the children of the deceased though the original documents are with the objector. The matter and circumstances of the illegal sale is currently being investigated by the land fraud investigation unit of the CID

Whether or not the Estate of Grace Wairimu Kamau has an administrator

Grace Wairimu Kamau passed away on 11.06.2011 and from her death certificate which has been exhibited I the affidavit oaf the objector she was aged 72 years at the time of death. To date no Grant of Letters of Administration has been issued though it has been applied for by the petitioners herein.

Whether or not Grace Wairimu Kamau was ill and if so from when.



On this issue only Medical evidence can be conclusive. The petitioner annexed a Medical port from Moi Teaching and Referral Hospital prepared by Dr. Joseph Embenzi which report is annexed as " MW 3" Your Honour, the report which is dated 31.10.2011 reveals that the late Grace Wairimu Kamau was suffering from:

- a) Diabetes Mellitus
- b) Hypertension
- c) Osteoarthritis
- d) Senile Dementia (Serious brain degeneration disorder)

The deceased treatment records dated back to 7/06/2005 as per the Medical Report. Your Honour, from the medical report Senile dementia means dying of brain cells due to old age, the condition is progressive. The condition was the onset of Alzheimers disease. Your Honour, the deceased was diagnosed with the condition in the year 2005 and by 2011 she was no more- a period of 6 years. Your Honour, the deceased's condition had degenerated to the point where she was not able to control her urine and bowel.

Your Honour she was in and out of hospital. She was not able to talk well and dementia cannot be cured. The deceased was confined to a wheel chair..

Whether or not the late Grace Wairimu Kamau could legally give her free consent to the alienation of her property from the year 2005 onwards. The deceased was not capable of making any informed decision as she had developed an irreversible brain disorder that causes memory loss. The deceased was fully dependent on people during the period from 2005 till her untimely death in the year 2011. The deceased was also not in any position to remember whatever she did. She was not insane but only had memory loss.

Your Honour, in this state, it was therefore impossible for the deceased to freely consent to the alienation of her property to anyone from the year 2005 onwards.

Your Honour, Section 5 of the Law of Succession Act clearly states that 'any person who is of sound mind and who is not a minor may dispose of all or any of his free property'

Your Honour, the Objector has furnished evidence marked as 'annexture "MW 3" which is the medical treatment summary for Grace Wairimu produced by Moi Teaching and Referral Hospital stating that the deceased was diagnosed and suffered from; 1. Diabetes/Mellitus, 2. Hypertension, 3 Osteoarthritis 4. Senile Dementia (Serious brain degeneration disorder)

Of particular significance to the deceased mental capacity is the 4 condition, senile dementia. Defined, Senile Dementia is a 'severe mental deterioration in old age, characterized by loss of memory and control of bodily functions.' It is a condition which seriously impacts the brain functions of the patient and can lead to memory lapse. Bearing that in mind, it is without a shadow of a doubt that the deceased who suffered from senile dementia was not in any way in her mental state to transfer any of her property to the petitioners herein and any transfer can only amount to a connived attempt to take advantage of the deceased mental situation and transfer the property to themselves and further sell them off to innocent parties to defeat the rules regarding intestacy as per the Law of Succession Act and disposes other dependents.

The court held in the case of Banks Goodfellow [1870 LR 5 QB 549 – A 1." It is essential to the exercise of such a power that that a testator

- (a) shall understand the nature of the act and its effect



- (b) shall understand the extent of the property of which he is disposing;
- (c) shall be able to comprehend and appreciate the claims to which he ought to give effect; and with a view to the latter object,
- (d) that no disorder of the mind shall poison his affections, pervert his sense of right, or prevent the exercise of his natural faculties-that no insane delusion shall influence his will in disposing of his property and bring about a disposal of which, if the mind had been sound would not have been made

Your Honour, whoever has a contrary view should furnish Medical proof that the deceased was of sound mind.

Whether or not some properties of Grace Wairimu Kamau were transferred between the years 2005 and the time of her death and if so to who our Honour, the copies of green cards annexed to the affidavits of the objector are self-explanatory.

- a) Eldoret Municipality / Block 12 (Kingongo )3304 was transferred to Anne Ndegwa on 10.01.2006 - "MW 8"
- b) Kapsret / Kapsret Block 1 (Yamumbi) 289 was transferred to Francis Thiongo Ndegwa on 28.04.2011 – “ MW 9”
- c) Eldoret Municipality / Block 12/36 was transferred to Francis Thiongo Ndegwa on 29.04.2009 – “ MW 10”
- d) Uasin Gishu / Kimumu / 162 was transferred to John Mwangi Ndegwa on 10.04.2008 and later sub - divided into 24 Plots being Nos. 4720 – 4743- “ MW 6”
- e) Uasin Gishu /Kimumu /163 was transferred to Francis Thiongo Ndegwa on 31.03.2009 and later sub-divided into 23 plots being Nos 5060-5082 “ MW 7
- f) It has been established that Muigai Inn Plots Nos W29 and W30 have been sold off and is currently the subject of investigations by the land fraud investigations unit” MW 12” MW 13 and MW 14

Whether or not the Court should issue any Preservation Orders pending the processing of a full grant.

Your Honour, the issuance of a preservation Order to both the alienated and the unalienated portion of the estate will be necessary at this stage as the petitioners and those working with them appear to be bent on depleting the estate using means that appear not to be above board.

Your Honour, the 1Npetitioner one Francis Thiongo filed a Replying Affidavit that was sworn on 19.06.2014. The properties enumerated in paragraph 4 of the Replying Affidavit of the 1NPetitioner are those that have been Irregularly and /or illegally transferred.

The Proceedings have been brought within the succession cause to determine what rightfully formed part of the deceased's estate. The fact that the deceased was not fully mentally stable is a factor to be taken into account by the Court.

Your Honour, the issue here is whether the properties that have been transferred to the petitioners and others during the illness of the deceased were done properly or whether those same properties should from part of the estate of the deceased.

The conduct of the petitioners towards the deceased during her lifetime should in this respect be taken into account. Your Honour, annexure " MW 15" on the Objectors / Applicants affidavit should be taken into account. Annexure "MW 15" which is a succession cause No. 16 OF 1990 Estate of the late



Samuel Ndegwa Kamau, the deceased swore an affidavit on 29.09.1995 complaining bitterly about her son's the petitioners.

Paragraph 11 (A) Thiong'o Ndegwa Kamau (vii) [[That he has on several occasions abused me, beaten me and even threatened me with death that if I don't give our money or if I ask him how he has spent or mismanaged the family assets he would kill me.

Paragraph 11 (B) John Mwangi Ndegwa (iv) [[Anytime I ask him about his mismanagement of finances he abused me, beats and threatened to kill me.

Contrary and in his replying affidavit dated 19.06.2014 opposing the application herein sworn by one Francis Thiong'o Ndegwa, described the relationship between the deceased and himself under paragraph 13 as a (. cordial relationship with our mother and that is why she transferred to us some of the properties which properties belonged to our later father)

8. As at 6.2.2024 a Notice of Motion was filed under Section 42, 45 55 and 71 of the [Law of Succession Act](#) and all other enabling provisions of the law was filed by Doreen Murugi Mboya seeking the following orders:

- i. That This Honourable court be pleased to appoint Doreen Murugi Mboya administratrix of the estate of Grace Wairimu Kamau the deceased herein;
- ii. That this Honourable court be pleased to direct that an estate account be opened for collection and preservation of rent income derived from the estate;
- iii. That this Honourable court be pleased to order Francis Thiongo Ndegwa to render an account of the rent so far collected by himself, his servants, agents and or representatives from the estate of Grace Wairimu Kamau in plots number Eldoret Municipality Block 14/ 1395 and 1396 and Huruma Plot No.152;
- iv. That this Honourable court be pleased to cite one Francis Thiongo Ndegwa for contempt of court having violated this court's preservatory orders and or direction emanating from the ruling delivered on the 28th, July, 2016 and commit him to civil jail for a period of six months
- v. That this Honourable court be pleased to cancel the certificate of lease issued to Francis Thiongo Ndegwa in plot number Eldoret Municipality Block 14/1395 and revert the ownership of the said parcel to the estate.
- vi. That cost of this application be granted;

Which application is based on the grounds That:

- i. The court directed the beneficiaries administrators of the estate to meet and agree on who the proposal and/or administratrix of the estate would be and give their to court;
- ii. That to date the beneficiaries have never met and or agreed on any and/or administratrix of the estate;
- iii. That the deceased estate continue to be waste and misappropriated for lack of proper administration and accountability;
- iv. That during the administration of the previous administrators, the deceased estate was wrongfully appropriated and transferred;



- v. That one Francis Thiongo transferred one of the estate's property known as Eldoret Municipality Block 14/1395 to his name in contravention to this court's directions and orders
  - vi. That the estate generates monthly income from properties known as Eldoret Municipality Block 14/ 1395 and 1396 and Huruma Plot No.152 which income is unjustly appropriated by Francis Thiongo at the detriment of all other beneficiaries
  - vii. That it is of paramount importance that administrators of the estate are appointed by this court to end the statement that is currently there in the administration and appropriation of the estate.
9. In response to that application one Francis Thiongo Ndegwa contested it by the replying affidavit dated 13.3.2024 in which he deponed as follows:-
- a. That I am an adult male of sound mind, the 1<sup>st</sup> petitioner herein hence competent to swear this affidavit.
  - b. That Paul Kingora Ndegwa was my brother, he was known as Paul Ndegwa Kamau since Ndegwa was my grandfather and Ndegwa was my father.
  - c. That during his life he did not have any children especially the applicant Doreen Murugi Mboya.
  - d. That if my brother had any daughter we would have known and as per our Kikuyu Tradition she would have been named after our mother.
  - e. That these applicant claims to be a grandchild of the late Grace Wairimu Kamau but she has tendered no prove of the allegation. 6. That our late brother did not survive our mother and some at the property was acquired after the demise of our brother and in any case the properties were our fathers before being transmitted to our mother through succession.
  - f. That these properties were later distributed amongst her children in the year 2007 and even if the titles are reading her name the properties have owners.
  - g. That I Believe that there are forces behind the applicant, she is a stranger to us and we have never met her before.
  - h. That we have never failed to proceed with the administration of the estate, the delay has been caused by our sister Mary Waithera who has refused to sign the consent.
  - i. That since many of the properties were physically distributed before our in mother his or her possession. passed on each beneficiary irrispirable for the specific properties in his or her possession.
  - j. That Eldoret/ Municipality Block 14/1395 and 1396 belong to me and my brother respectively, the titles deeds were processed from share certificates by World Bank project whereas Huruma Plot No. 152 was given to Dan Nihia Ndegwa by our mother and together with our sister Anna Ndegwa we utilize the proceeds to cater for the need of the children left behind by our late brother Dan.
  - k. That the applicant has no right whatsoever to demand that I account for rent collected since she does not belong to the family, she's a stranger who intention is to enter into these proceedings and cause chaos or anarchy.



- l. That the applicants claims are fictions whereas, she's not a beneficiary to the estate and therefore cannot be allowed to tamper with these proceeding.
  - m. That I have not caused any loss or wastage to the estate nor have I refused to administer the same.
  - n. That I swear this affidavit in opposing the application dated 6th February 2024 and pray that the same be dismissed with costs.
  - o. That what is deponed hereto above is true to the best of my knowledge, information and belief.
10. Similarly, one John Mwangi Ndegwa also swore an affidavit dated 13.3.2024 in which he dponned as follows:
- i. That I am an adult male of sound mind, the 2nd petitioner herein hence competent to swear this affidavit.
  - ii. That I have read the application dated 6th February 2024 and I wish to respond thereto as hereunder.
  - iii. That the applicant Doreen Murugi Mboya is a stranger and unknown to our family.
  - iv. That Paul Kingora Ndegwa was my brother and passed on in 1996 and at the time of his demise he had no children.
  - v. That Paul Kingora Ndegwa never married one Catherine Muthoni Njueh as alleged by the applicant.
  - vi. That if at all the applicant was a daughter of my brother she would have been named after my mother Grace Wairumu.
  - vii. That the applicant has taken a birth certificate on 8th May 2023 which is definitely a forgery coming thirty-three years after she was born.
  - viii. That if the applicant was my brother's daughter we would have seen her during his life time and after
  - ix. That there is no way that the applicant who is a stranger and unknown to the family can be made as an administrator.
  - x. That our late mother Grace Wairumu when she was alive physically distributed her property which included Eldoret Municipality Block 14/1396 which belongs to me and which title was processed by the world bank recently.
  - xi. That parcel of land no. Eldoret Municipality Block 14/1395 which belongs to my brother Francis Thiongo Ndegwa was also processed in the same way.
  - xii. That we do not understand the motive of the application but it is misplaced and an abuse of the court process.
  - xiii. That I swear this affidavit in opposing the application dated 6th February 2024 and pray that the same be dismissed with costs.
  - xiv. That what is deponed hereto above is true to the best of my knowledge, information and belief.
11. The primary focus of any probate court is on distribution of the assets both movable and immovable of the deceased to the beneficiaries.



## DECISION

12. This is not the first court to make decisions touching on the administration of this estate. From the record on 31.5.2014 the Applicant Mary Waithera moved the court seeking prohibition orders as against the Petitioners Francis Thiongo Ndegwa and John Mwangi Ndegwa. The inhibition or prohibition was to cover various assets apparently stated to have been free estate of the deceased before her demise. The session Judge then Githua J pronounced herself as follows:

As stated earlier, this court can only issue preservative orders in respect of property proved to comprise deceased person's Estate. There is evidence that land known as Soy/Soy Block 10/Navillus/1074; Eldoret Municipality/Block 14/1395, and 1396 and Huruma Plot No. 152 belonged to the deceased at the time of her death. There is also evidence that the deceased at some point owned plots No 29 & 30 at Muigai Inn but the applicant now claims that the plots have been sold to 3rd parties. According to exhibit marked "MW14", the circumstances under which the plots were are under investigations. Consequently, it is not possible to tell whether the said plots were sold before or after the deceased's. As regards land described in prayer 3 (f) as Solai/Ndungiri/Block 3/Wanyororo "B"/1529 and Western Farmers 15/1654, the two properties are not included in the inventory of assets belonging to the Estate in form P&A 5 and the applicant has not availed to the court any documents to prove that the said properties belong to the deceased's Estate.

In view of the foregoing and considering that no grant of representation has been made in this cause, I find that it will be in the interest of justice to issue the orders sought in respect of the properties I have stated above which indisputably belong to the Estate of the deceased in order to preserve them for the benefit of all the deceased's defendants pending the determination of this cause.

I therefore issue preservative orders prohibiting any dealing with land parcels known as LR No. Soy/Soy Block 10/Navillus/1047; Eldoret Municipality/Block 14/1395 and 1396 and Huruma Plot No. 152. Before concluding this ruling, I wish to state that it is disconcerting that the petition for grant of letters of administration to the deceased's Estate has remained pending for over two years it is alleged by the respondents that the applicant has been the stumbling block to the issuance of the grant. Whether this is true or not is not for me to determine but it cannot be gainsaid that that further undue delay in the issuance of the grant of representation in this cause will adversely affect all the beneficiaries of the Estate including the objector. For this reason, the beneficiaries are encouraged to agree on who among them should be appointed as administrators of the Estate in order to facilitate a speedy conclusion of this cause. In the end, the application partially succeeds, costs of the application shall be costs in the cause. It is so ordered

13. I am tasked in determining the three applications based on the material fact and in consonant with the provisions of Section 107 (1) 108 & 109 of the *Evidence Act*.
14. In a nutshell something needs to be done about this estate if this protracted litigation and weaponization of the court by the beneficiaries is anything to go by as a pointer that time has come to either revoke the appointment of the administrators under Section 76 of the Law of the Succession Act or retain them to be supervised by the Deputy Registrar within the ministerial powers donated by Order 49 of the Civil Procedure Rule. Indeed, this is a sad story that the deceased created wealth for the benefit of her family but taking possession seems to be a mirage



15. The record shows that there are three applications still pending determination by this court. First and foremost I start with the one dated the 6.2.2024. Essentially the predominant issue in this Notice of Motion is this is the probate court being asked to read Doreen Murugi Mboya be one of the administrators to the estate of Grace Wairimu Kamau. Second was the call to grant an order for the estate account to be opened to preserve the rent receivable while at the same time one Francis Thiongo to render the account of the rent so far collected with regard to Eldoret Municipality Block 14 /1395 and 1396 and Huruma Plot No 152. Finally it was contended by the Applicant that Francis Thiongo Ndiwa be committed to civil jail for disobeying the ruling delivered on 28.7.2016. Last but not least, it is an order for this court to cancel the certificate of lease issued to Francis Thiongo in Plot No. Eldoret Municipality Block 14/1395.
16. As seen from the replying affidavit of Francis Thiongo and John Mwangi Ndegwa both of them assert that the applicant Doreen Murugi is a stranger to the family tree of the deceased in the matter of the estate of Grace Wairimu Kamau. That their brother Paul Kingora Ndegwa who passed in 1996 had no children.
17. These three affidavits have been reviewed by this court and in so far as the law is concerned Doreen Murugi Mboya in the nuclear family tree of Grace Wairimu Kamau she is a grand daughter although there is contestation in view of the averment from the replying affidavit of Mr Francis Thiongo and John Mwangi Ndegwa that the purported claim by Doreen being a daughter of Paul Kingora Ndegwa is false on the basis that he was never blessed with children during his lifetime.
18. In measuring the standard and burden of proof vested with the Applicant Doreen in terms of Section 107 (1), 108 & 109 of the *Evidence Act* there is no cogent and credible evidence from her affidavit which has been counter demanded by the petitioners that her claim as of now has been proved to place her within the legitimacy of the beneficiaries under Section 29 of the *Law of Succession Act*. That means that there may be a necessity at an opportune time to test the affidavits under cross examination so that the ripe and the unripe has to who Doreen Murugi Mboya is in so far as the consanguinity and affinity in the matter of the estate Grace Wairimu Kamau of Eldoret is concerned and who died on the 11.6.2011. I am unable to make a positive finding in favor of the Applicant as of now notwithstanding the annexed documentary disclosures whose root source is being challenged vehemently by the sons to the deceased who also happen without a doubt to be brothers to the deceased Paul Kingora Ndegwa. That as of now answers one of the issues premised in the Notice of Motion.
19. The second issue of concern to the Applicant was for leave of this court to order one Francis Thiongo to render an account of the rent so far collected in respect of Eldoret Municipality Block 14/1395 and 1396 and Huruma Plot No 152. If this court was to grant these prayers it has got to draw its foundation in the orders which were decreed by Githua J in which she pronounced herself:
  - i. That the court has no jurisdiction to issue orders sought by the Applicant in respect of the properties described in prayers (a) (b) (c) (d) and (e) above and therefore orders sought against the properties are declined.
  - ii. That preservatory orders prohibiting any dealings with land parcels known as LR/Soy Block 10/Navillus/1047, Eldoret Municipality/Block 14/1395 and 1396 and Huruma Plot No 152 are hereby issued,
  - iii. Application succeeds partially, costs of the application be in the cause
20. This ruling on the face of it cannot be invoked unless and until there is alignment of this estate on both procedural and substantive law. What do I mean? The core of a probate court is to identify the personal legal representative commonly referred to as administrators duly appointed under Section 66



of the *Law of Succession Act*. The record is not very clear as to whether by the time this ruling was being delivered by the session Judge Githua J there was compliance on appointment of administrators who will sit on the armchair of the deceased for purposes of administering the estate including preservation, collection, tracing of assets and liabilities geared towards the scheme of distribution within the timeline of 6 months from the date of the initial grant of letters of administration. I take judicial notice that this is a fairly old case docket and may be some of the necessary legal documents may have been misplaced. One such important instrument which I can't get hold of is the gazettement of Francis Thiongo Ndegwa and John Mwangi Ndegwa as administrators of the estate in the matter of Grace Wairimu Kamau. However, that as it may be apparently and rightly so on 3.10.2025 grant of letters of administration intestate were issued to Francis Thiongo and Mary Waithera Kinyanjui following a gazette Notice dated 26.8.2025. This means there might not have been another Gazette Notice empowering Francis Thiongo and his brother John Mwangi Ndegwa to proceed diligently and in good faith to administer the estate of Grace Wairimu Kamau. This finding are purely based on the reading of the record as it is reflected and there may be errors on the face of the record to that effect.

21. The import of this is that if the grant of letters of administration intestate dated 3.10.2025 it was expected of the administrators whom I am told they do not see eye to eye to put aside their differences so as to deliver this noble and legal duty of identifying the beneficiaries and the true net inventory of the assets and liabilities survived of the deceased. The administrators are legal representatives vested with fiduciary duty to manage, protect and distribute a deceased person's estate according to the law and the grant of representation. It is also the duty of the administrators to collect assets, pay funeral expenses, pay debts and distribute the estate according to law. The issue of producing an interim or full and accurate inventory and account of the dealings with the estate is one of the primary function and duties provided in the statute. It was expected that from the grant of 3.10.2025 both Francis Thiongo and Mary Waithera could have put their differences aside to dutifully and diligently identify the net estate of the deceased and the beneficiaries within the scope of Section 29 of the Act to accomplish one mission to devolve the estate in accordance with the law
22. The impression I get from the application for revocation of the grant of letters issued on 3.10.2025 is that both of them have not taken the duties seriously and to act impartially. The authorities from the various courts on this issue are of significance and citing them and the respective principles shades more light on the responsibilities and accountability of the administrators under Section 82 and 83 of the *Law of Succession Act*.

Duty to Account and Act Impartially:

- a. In re Estate of Habiba Wanjela Kalamd [2014] eKLR (Succession Cause 218 of 2007): The High Court emphasized that administrators hold property for the benefit of others and have a strict duty to account for their handling of assets. The court ordered a full account of the administration from the date of the grant.
- b. In the Estate of Nom Okaro Muluka [2024] KEHC 3021 (Succession Cause 58 of 2020): The court held that administrators must not "lord over the beneficiaries" but rather distribute the estate as fast as possible.
- c. Duty to Protect the Estate (Prohibition of Intermeddling): In re Estate of Ndiba Thande [2013] eKLR. It was established that even beneficiaries or spouses cannot handle property without a grant of representation. Doing so constitutes "intermeddling".
- d. In re Estate of Peter Odusi alias Peter Odusi Adung'o [2012] eKLR. The court ruled that only those with a full or limited grant are authorized to sue or represent the estate.



- e. Duty to Act Together (Joint Administrators): *Changal v Maritim & another* [2025] KEHC 8667 (Succession Cause 196 of 2015): The court noted that when one joint administrator dies, their powers vest in the surviving administrators, and the grant remains operational without needing immediate replacement. Liability for Mismanagement:
  - f. *Re Estate of Gitura Hiti Gathuna* (Succession Cause 926 of 2014): The High Court ruled that administrators who exceed their statutory powers can be held liable for wasting the estate.
23. The consequences of breach of duty by an administrator who refuses to honour court orders or fails to distribute the estate, the court has powers to remove him or her or both or more than two or entire group of four and sometimes it is suo moto as provided for under Section 66 as read with Section 76 of the Act to ensure proper administration on transmission of the estate. The primary role of the probate court is distribution of the estate of the dead person, but not to superintend over wrangles between family members. It is for this reason that the [\*Law of Succession Act\*](#), Cap 160, Laws of Kenya, has a very clear roadmap for administrators follow. After grant is made to them they are expected to apply for confirmation of grant, by dint of section 71, after expiration of six months. Upon the grant being confirmed they have another six months to distribute the estate and wind up the administration. Administrators who stick to this programme should be able to wind up administration within one year of the grant being made to them. The [\*Law of Succession Act\*](#) does not envisage that administration of estates goes on for generations. Indeed, the policy behind the law is that administration should be completed as soon as possible so that every survivor of the deceased gets their share of the estate and moves on with their lives. administration can drag on for years on end in cases where the administrators do not do the right thing, either because of incompetence or truancy. As the law does not plan for an endless administration, it has put in place mechanisms for dealing with cases where administrators fail in their duties. Section 71 requires the administrators to apply for confirmation of grant after expiry of six (6) months after the grant was made. That gives them ample time to collect the assets, ascertain debts and liabilities ascertain beneficiaries and work out a mode of distribution of the assets. If an administrator fails to move the court for confirmation of their grant upon expiry of the six months envisaged in section 71, the court is mandated under section 73 to give notice to the administrator to apply for confirmation. Failure to comply with section 71 is one of the grounds upon which a grant may be revoked. Section 76(d) (i) states that ground - the failure to apply for confirmation of grant within one year from the date of its making. (see *In the Matter of the Estate of Onyango Ogutu alias Benedcit Onyango* Succession Cause No 928 of 2000 )
24. The [\*law of Succession Act\*](#) guides on the proper persons to be appointed as the administrators(s) of the estate of deceased if the deceased has not left a will identifying executors in most cases a number of people related to the deceased may be eligible for such appointment. The appointees/executors may for various reasons prove not to be competent administrators after such an appointment.
25. This court is being asked to revoke the grant of letters dated 3.10.2025 on the basis that there was no inclusivity or family participation and therefore it is defective to that extent. Just to remind the parties that the consent sought from the parties is just one of the parameters but once the probate court exercises jurisdiction it is clothed with statutory powers to appoint administrators under Section 66 of the Act to administer the estate diligently. All what was required of the two administrators whom this court is being asked to impeached and remove from the office was to comply with the law of identifying the net estate, the heirs legitimately and other dependents capable of inheritance rights.
26. The question of bad blood between them is neither here nor there and in this case no doubt the administrators are in default of Section 71 of the [\*Law of Succession Act\*](#) to move and file the necessary suit papers on confirmation of the residual estate. In the event there is no estate to administer the pending



file should be liquidated and administrators now on record be discharged within the provisions of Section 82, 83 & 84 of the *Law of Succession Act*. The history of this petition in the matter of the estate of Grace Wairimu Kamau might not even be about who is a better administrator besides the two to faithfully, diligently, and competently administer the intestate estate of the deceased. There is no doubt from the applications and suit papers filed on this Succession Cause the issues of the assets survived of the deceased have not been fully ascertained. There is also a dispute as to the exact level of assets of the deceased as at the time during her survival and subsequently upon her demise whether there has been intermeddling of the intestate estate as averred in some of the affidavits filed before this court. Fortunately, some of the issues bedeviling this estate were heard and determined by the session Judge Githua Judge as she then was presiding over the proceedings in this very same estate. I note that some of the so claimed net estate of the deceased is already in the hands of third parties with some of the assets also duly vested with the legitimate beneficiaries. Therefore, even one of them is challenging the devolution of some of those assets the rightful thing to do is to approach the forum of conveniens to adjudicate those rights and I am not sure that the probate court is the proper forum to cancel any such titles.

27. The appointment of the administrators has never been perfect and consented to by all the beneficiaries, that's why the probate court is clothed with unfathered discretion even suo moto to appoint the legal representative who would be held accountable while working with the court to diligently administer the estate as per the law established. In any family tree each member of that lineage is curated with a DNA which probably the court gives it prominence it will end up being held hostage in delivering its constitutional and statutory mandate in the administration of justice which has a component of justice and human rights.
28. That is why I find it strange that in this estate the beneficiaries are known and may be with precision the nature and character of the net estate of the deceased. What may have been devolved or transmitted to her children during her lifetime cannot constitute in law the net estate capable of being distributed to the beneficiaries. In my view to the beneficiaries in the matter of the estate of Grace Wairimu the truth shall set you free and no amount of wrangling and multiplicity of applications shall fairly, appropriately and proportionately accord you fair trial rights to secure the assets which your mother so hardily, purposively intentionally, strategically, and diligently worked for the benefit of her heritage. The real question is not being answered by the beneficiaries to the estate.
29. There is so much agitation for the removal of one of the administrators by the name Mary Waithera Kinyanjui that she is uncooperative and the source of all the challenges facing the administration of this estate. Therefore, the solution is a declaration to be issued for her removal and all problems shall cease to pave way for the sharing of the assets to the beneficiaries. There is no mention why Francis Thiongo Ndegwa and John Mwangi Ndegwa when they petitioned for grant of representation were not supported to deliver their mandate on the administration of the estate. This means there is more than meets the eye to this intestate estate than the prayer for revocation of grant or removal of one Mary Waithera Kinyanjui
30. One has got to derive the powers under Rule 73 (1) of the Probate and Administration Rules on inherent jurisdiction to set the record straight in this estate that it might not be a one issue but intergenerational multiplicity of issues which have not been unpackaged in good faith so that each of the beneficiary can secure his or her rights on inheritance. This is the power of the court under this rule. "Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court." The revocation of grant is not the only recourse this court is empowered to grant as a remedy in matters of this nature. Although I take cognizance that confirmation of grant is yet to be filed indicative of



the proposals and metrics to be adopted by this court on distribution. The issue of non cooperative of administrators, ego triggers and personal differences should not be used as an excuse to limit access to right to property to other beneficiaries which right is guaranteed under Article 40 of *the constitution*.

31. This matter has been revisited by superior courts elsewhere in other forums as can be appreciated in the principles laid down in the Re-Estate of William Nzioka Mutisya (Deceased) (2018) eKLR Hon. Justice GV Odunga aptly observed:- "It is however my view that the administrators may be removed from their duties where, due to wrangles and disagreements amongst themselves, it is impossible for them to proceed diligently with the administration of the estate... In my view if the Court finds that the administrators are unable to properly administer the estate due to their disagreements, nothing steps the Court from removing them from the administration and appointing new administrators notwithstanding the issue of priority or preference. This must be so because section 66 of the *Law of Succession Act* provides that: When a deceased has died intestate, the court shall, save as otherwise expressly provided, have a final discretion as to the person or persons to whom a grant of letters of administration shall, in the best interests of all concerned, be made."
32. This application on Francis Thiongo accounting for the rental cash receivables is crafted in a manner which demonstrate that it is a legal battle between MARY WAITHERA KINYANJUI who also happens to be a co-administrator. In my view since her appointment, she needed to share with the court some material evidence on the number of tenants, the mode of payment being made from the current property, the character of the tenancy agreement which exist as between the co-administrator and the tenant. There is no description of this contractual relationship which is also governed by other statutory legal provisions ensuring certain rights are enjoyed by the tenants.
33. There is no evidence of existence compelling substantial circumstances which made it impossible for the Applicant to obtain material evidence on this remedy of appointing an independent organization to manage the property including rental cash receivables. With the kind of contestation in this estate on what exactly constitutes the net estate of the deceased since the decision by Githua J was made it would be premature to grant the orders sought in the application dated 5.2.2026 . The duties and responsibilities of administrators appointed rightly on the face of the record notwithstanding reservations by some of the beneficiaries are required to follow the law to the letter and any doubt be referenced to the probate court. The Applicant also in her quest for justice has not answered the predominant question why the distribution of the estate is in limbo and the best they have on record since they petitioned for grant of letters of administration is a multiplicity of interlocutory applications. It is time they bite the bullet and find it in their space to inform this court who among them is best placed to be appointed an administrator under Section 66 of the Act so that they can withdraw their legal ammunitions which are engaged solely for the purposes of weaponizing each other which in my view is an abuse of the court process. It should be known to the Applicant that the fact that they have been appointed as the administrators of the estate of their beloved mother now the deceased it does not mean that they can administer the estate based on caprice or whims. This is their pitch under the law:
  - a. Apply for confirmation of the grant within one year of appointment
  - b. Proceed diligently with the administration of the state
  - c. Produce accounts as required by law
  - d. Cooperate with co administrators and beneficiariesFor those reasons all within the evidential material filed in the three applications dated 6.2.2024, 18.12.2025 & 5.2.2026 respectively which have been pending before this court touching on the three applications I move to make the following orders



- a. That the application on preservation of the intestate estate of the deceased still abides the ruling of Githua J dated 28.7.2016.
- b. A declaration be and is hereby made that the issue of contempt is not capable of not being issued against Francis Thiongo in view of the scarcity of evidence at what exactly has been violated or infringed to warrant him to be committed to Civil Jail.
- c. That a declaration be and is hereby made that the administrators are in breach of Section 71 of the Law of Succession Act on filing for confirmation of grant within the stipulated period since they were issued with the impugned grant of letters of administration by this court as a consequence herein enlargement of time has been granted that such an application for confirmation of grant be filed by both Francis Thiongo Ndegwa and Mary Waithera Kinyanjui and in the event the co administrator Mary Waithera declines her appointment shall stand revoked under Section 76 of the Law of Succession Act.
- d. That an alternative declaration be and is hereby made that the sole remaining administrator Francis Thiongo under the supervision of the Registrar of the High Court shall move diligently to file the proposed mode of distribution comprising of the net estate of the deceased as at the date of her demise within 45 days from today's ruling.
- e. That a further declaration is made that the application on revocation of grant lacks merit and the same is declined.
- f. That a declaration be and is hereby made that the question of appointment of a management agent to take control of the itemized parcel of land namely Huruma Plot No 52 ELDORET MUNICIPALITY/BLOCK 14/1395 and Eldoret Municipality/Block 14/1396 to collect rent on behalf of the estate is premature in view of the lacuna by the beneficiaries not to apply for confirmation of grant.
- g. That in interim and at the time of confirmation and order be and is hereby issued that on crystallizing it as part of the net estate of the deceased a forensic auditor can be appointed for purposes of rendering an interim account on cash receivables and its application during the pendency of this succession cause.
- h. That the contested accounts on commencement of application for confirmation shall be in the form of an affidavit form supported by an appropriate recommendation which shall be annexed to the affidavit detailing the net estate of the deceased.
- i. That the matter shall be mentioned on 20.4.2026 before Court No 1 to monitor compliance.
- j. That a further declaration be and is hereby made that in default of the residual administrators not to comply on the law on confirmation and transmission of the estate to the right of beneficiaries an alternative organ of state known as the Public Trustee shall be at liberty to take over the administration of the estate constituting the net estate of the deceased. The cost of this application shall be in the cause.

**GIVEN UNDER MY HAND AND SEAL OF THIS COURT THIS 10<sup>TH</sup> DAY OF MARCH 2026**

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**R.NYAKUNDI**

**JUDGE**

