



**In re Estate of the Late Kiarri (Deceased) (Succession Cause E2820 of 2022)  
[2026] KEHC 2930 (KLR) (Family) (6 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 2930 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE E2820 OF 2022  
PM NYAUNDI, J  
MARCH 6, 2026  
IN THE MATTER OF THE ESTATE OF THE LATE WAITHIRA KIARII(DECEASED)**

**RULING**

1. The deceased herein died on 22<sup>nd</sup> January 2022. She had four children-
  - i. Regina Wairimu Kiarri
  - ii. John Gachungei Kiarie (Deceased) – survived by a widow and 4 children
  - iii. Michael Mukora (Deceased) survived by a widow and 6 children
  - iv. Nancy Njeri Kiarie (Deceased) survived by 3 children.
2. At the time of her death she was the registered proprietor of Land Parcels Ruiru/ Kiu Block 2 (githunguri) 2755 and ¼ acre of Githunguri Consitency Ranching Company Limited vide Certificate No. 3372. Grant of Letters of Administration Intestate issued to Regina Wairimu Kiarri on 16<sup>th</sup> January 2024.
3. Vide Summons for Confirmation of Grant presented by Regina Wairimu Kiarri and John Gachungei Mukora it is proposed to confirm the grant and distribute the estate equally amongst the 4 children of the deceased. Since 3 of the Children are deceased, it is proposed to transmit their respective shares to their children, that is the grandchildren of the deceased. It is proposed that Francis Kiarie Gachungei and Jane Waithera Gachungei hold the land in trust for themselves and the children of John Gachungei Kiarri and Nancy Njeri Kiarri. While Brian Mukora and John Gachungei Mukora hold in trust for the Children of Michael Mukora Kiarri (deceased). The Administrator, Regina Wairimu Kiarri, will hold her share in trust for herself and her children.
4. The Protestors have filed affidavits in opposition to the confirmation and the proposed mode of distribution. In her affidavit sworn on 11<sup>th</sup> October 2024, Susan Wanjiru Gachungei avers that she is the daughter-in-law of the deceased. She is the widow of John Gachungei (Deceased), a son of the deceased



- herein. She states that the deceased ‘passed on’ to her both parcels of land and that she proceeded to sell these parcels to 3<sup>rd</sup> parties.
5. The Administrator sued the purchasers in Nairobi ELC Case No. 383 of 2016 Regina Wairimu Kiarri and Rahab Wairimu Mukora (Suing as Legal Representative and Administrators of the Estate of Waithira Kiarri ( Deceased vs Susan Wanjiru Gachungei & 19 Others. She avers that the party she sold the land to has since sold it to other parties. She states that the 3rd parties have since occupied the land and constructed permanent structures thereon, and their interest should be protected.
  6. Violet Wambui Njikari, Hellen Kagwiria Kirema and Joseph Kamau Maina have sworn a joint affidavit of protest on 14<sup>th</sup> March 2025. They are purchasers of a portion of Land Parcel RUIRU/KIU BLOCK 2 (GITHUNGURI) 2755. They state that the parcel of land was transferred to Susan Wanjiru Gachungei, Carol Murugi, and Patrick Mwaura (Dependants of the deceased). The three transferred the land to James Thendu Gitau and Martha Mueni Mburu, who sold it to Nancy Wairimu Gitu. That Nancy Wairimu Gitu then subdivided the land and sold the parcels to their respective owners. They concede that their parcels were nullified in the ELC matter and are aggrieved that they will suffer irreparable loss if the proposed mode of distribution is allowed, as it does not cater for their interests as they are bona fide purchasers for value.
  7. The Application was canvassed via written submissions. The Petitioners' submissions are dated 5<sup>th</sup> December 2025. The judgment in ELC Case NO.383 of 2016 cancelled the titles of the protestors and other purchasers on the basis that the sale/ transfer of the parcel of land from the deceased was void, irregular and illegal. The protestors are therefore estopped from presenting any claim against the land as bona fide purchasers for value. They are barred by the doctrine of res judicata.
  8. The submissions of Violet Wambui Njikari, Hellen Kagwiria Kirema and Joseph Kamau Maina are dated 21<sup>st</sup> November 2025. They frame the following as the issues for determination-
    1. Whether the Protestors possess recognizable legal and equitable interests in the estate property;
    2. Whether the Court has jurisdiction under the *Law of Succession Act* and its inherent powers to protect such interests;
    3. Whether the nullification of the title by the ELC extinguished their right to restitution or equitable relief; and finally;
    4. Whether Confirming the Grant in Its Current Form Would Result in Injustice and Violate the Principles of Equity, Natural Justice, and Constitutional Fairness.
  9. It is submitted that as bona fide purchasers for value without notice, they have a a status that attracts both legal and equitable protection. Reliance is placed on the decisions in Lawrence P. Mukiri v Attorney General & 4 Others [2013] eKLR and Katende v Haridar Company Limited (2008) 2 E A 173 (Court of Appeal, Uganda); Arthi Highway Developers Ltd v WestEnd Butchery Ltd & 6 Others [2015] eKLR; Willy Kimutai Kitilit v Michael Kibet [2018]eKLR.
  10. It is submitted that the Court should evoke its inherent jurisdiction under Section 47 of the *Law of Succession Act* and Rule 73 of the Probate and Administration Rules. It is submitted that the judgment of the ELC Court did not extinguish the protestors' rights. At paragraph 43 of the submissions, the protestors assert that they are entitled to compensation. It is therefore submitted that confirming the grant would occasion a great injustice to the protestors/ purchasers.
  11. The Submissions of Susan Wanjiru Gachungei are dated 12<sup>th</sup> January 2026. She reiterates the averments in her affidavit of protest.



## Analysis And Determination

12. Having reviewed the pleadings herein, submissions filed I frame the following as the issues for determination-
- i. Should the protests herein be allowed?
  - ii. Arising from the determination of (i) above, subsequent to the confirmation of the grant how should the estate of the deceased be distributed?
  - iii. What if any are the consequential orders arising?

### Should the protests herein be allowed?

13. The Protestor, Susan Wanjiru Gachungei, seeks this Court to validate her actions in dealing with estate properties after the death of the deceased. She claims the deceased passed on the title to the parcels of land to her, but does not demonstrate how.
14. The protest by Violet Wambui Njikari, Hellen Kagwiria Kirema and Joseph Kamau Maina touches on the proposed distribution of Land Parcel No. RUIRU/ KIU BLOCK 2 (GITHUNGURI) 2755. The protestors acknowledge that the Environment and Land Court nullified the transfers and directed that the parcel of the land revert to the estate. In my mind, the decision of the Court had the effect of extinguishing any claim the protestors have against the estate, whether legal or beneficial. Their claim can only be sustained against those who purported to pass title to them.
15. For the above reasons, I dismiss both Protests.
16. On the 2<sup>nd</sup> issue, whether the Court should confirm the grant and how the estate should be distributed?
17. Section 71 (2) of the [Law of Succession Act](#) provides that on an application for confirmation of a grant, the Court-
- (a) if it is satisfied that the grant was rightly made to the applicant, and that he is administering, and will administer, the estate according to law, confirm the grant;
18. The Administrator has gone to the trenches and successfully recovered an asset of the estate; I have no hesitation in confirming the grant in her favour. Accordingly, the Grant issued to Regina Wairimu Kiarri on 16<sup>th</sup> January 2024 is confirmed.
19. I find that the following are the assets of the estate of the deceased who died intestate available for distribution-
- i. Ruiru/ Kiu Block 2 (githunguri) 2755;
  - ii. ¼ acre of Githunguri Constituency Ranching Company Limited vide Certificate No. 3372
20. On distribution, it is not in contest that the deceased died intestate and is survived by children and no spouse. The applicable law is Section 38 of the [Law of Succession Act](#) that provides-
38. Where 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.



21. It is not in dispute that the beneficiaries of the Estate of the deceased are as set out in the letter of the Chief Juja Location dated 9<sup>th</sup> October 2015. That is-
- i. Regina Wairimu Kiarrii
  - ii. John Gachungei Kiarie (Deceased) – survived by a widow and 4 children (Jane Waithera, Francis Kiarie, Carol Murugi, Martin Mwaura)
  - iii. Michael Mukora (Deceased) survived by a widow and 6 children (Jane Gachungei, Francis Kiarie, George Mburu, Virginia Mbaire, Brian Kiarie and Janet Waithera)
  - iv. Nancy Njeri Kiarie (Deceased) survived by 3 children (Francis Kiarie, George Gachungei, Njoroge Ngugi)
22. Pursuant to Section 38 and in exercise of my discretion under Section 47 of the *Law of Succession Act* and rule 73 of the Probate and Administration Rules, the estate of the deceased shall be distributed as follows-

Asset	Beneficiaries & Share
Plot No. Ruiru Block 2 (Githunguri) 2755	<ol style="list-style-type: none"> <li>1. Regina Wairimu Kiarrii ¼ Share Absolutely</li> <li>2. ¼ share to Jane Waithera, Francis Kiarie, Carol Murugi, Martin Mwaura to hold jointly in equal shares</li> <li>3. ¼ share to Jane Gachungei, Francis Kiarie, George Mburu, Virginia Mbaire, Brian Kiarie and Janet Waithera to hold jointly in equal shares</li> <li>4. ¼ share to Francis Kiarie, George Gachungei, Njoroge Ngugi to hold jointly in equal shares.</li> </ol>
Githunguri Ranching Company Limited Plot No. 0015 Share Certificate No. 3372	<ol style="list-style-type: none"> <li>1) Regina Wairimu Kiarrii ¼ Share Absolutely</li> <li>2) ¼ share to Jane Waithera, Francis Kiarie, Carol Murugi, Martin Mwaura to hold jointly in equal shares</li> <li>3) ¼ share to Jane Gachungei, Francis Kiarie, George Mburu, Virginia Mbaire, Brian Kiarie and Janet Waithera to hold jointly in equal shares</li> <li>4) ¼ share to Francis Kiarie, George Gachungei, and Njoroge Ngugi to hold jointly in equal shares.</li> </ol>

23. What then are the consequential orders? -



- i. The Protests are both dismissed
  - ii. The Grant issued to Regina Wairimu Kiarri on 16<sup>th</sup> January 2024 is confirmed
  - iii. The Estate of the deceased to be distributed in terms of paragraph 22 above
  - iv. The Administrator to finalise transmission within 6 months from the date hereof
24. Each party to bear their own costs
25. Parties at Liberty to Appeal. The party exercising their right of appeal to do so within 30 days.

It is so ordered.

**SIGNED, DATED AND DELIVERED IN VIRTUAL COURT THIS 6<sup>th</sup> DAY OF MARCH 2026.**

**M. NYAUNDI**

**JUDGE**

In the presence of:

Ng'alamoi Court Assistant

Oluoch holding brief for Ngani for Petitioner

Ms. Mwangi for Applicants

