

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. 322 OF 2007

**IN THE MATTER OF THE ESTATE OF THE LATE JOHANA
MACHI A. MAINA (DECEASED)**

**ESTHER MAINA.....1ST
PETITIONER**

JULIUS KIBET KIRUI.....2ND PETITIONER

V E R S U S

ELISHA KIRUI.....1ST OBJECTOR

EUNICE KIRUI.....2ND OBJECTOR

DAVID K. KIRUI.....3RD OBJECTOR

BENARD K. KIRUI4TH OBJECTOR

**MARY CHEPNGENO MAINA.....5TH
OBJECTOR**

RULING

1. This Succession Cause was gazette on 16th November, 2007.
The notice clearly indicated that Esther Cheptoo Maina and Kirui Julius Kibet had petitioned to be issued with Letters of Administration in respect of the Estate of Johana Machii A. Maina, deceased.
2. On 14/12/2007, Elisha Kipkorir Kirui, Eunice Chelangat Kirui, David Kiplangat Kirui Bernard Kimutai Kirui and Mary Chepngeno Maina lodged an Objection against the

Application for Grant. The Objection proceedings has not been heard. No Grant has so far been issued.

3. On 29th July, 2024, the dispute was referred to a Panel of elders (i.e. AJS) under the Chairmanship of a retired Assistant Chief of Kapkugerwet Sub-Location. The Elders sat and deliberated over the matter and came to the conclusion that the deceased distributed his property inter vivos.
4. It is clear that the dispute which the Elders were to determine whether the Petitioners should be appointed as Administrators of the Estate. It is only after the Administrators have been appointed that an Application for Confirmation of Grant can be filed. The Elders' decision has not resolved the question as to who should be appointed as the Administrator(s) of the deceased Estate.
5. This Court has been asked to make an order adopting the Elders' decision as its decision. I do not think it is appropriate to grant the Order at this state. Consequently, I defer my decision on whether or not to adopt the Elders' decision until after a decision on appointment of

Administrators is done and until an Application of Confirmation is filed.

6. This cause should therefore be fixed for hearing of the Objection to Application for Grant. The same is fixed for hearing on 21/4/2026.

Dated, signed and delivered at Kericho this 19th day of February, 2026.

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**J. K. SERGON
JUDGE**

In the Presence of:-

C/Assistant - Rutoh

Miss Cherono for the 2nd Objector & 1st Petitioner