

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT**  
**KITALE**  
**ELC NO. 49 OF 1997**

**PRISCILLA BOSIBORO ACHOKI**  
**ANNE NDUNGE ACHOKI**  
**JOB MECHA ACHOKI**  
*(Representative of the Estate of*  
**ANDREW ACHOKI MOGAKA(Deceased)-----**

**APPLICANTS**

**D. MARANGA**  
**NYASAE-----APPLICANT**

**VERSUS**

**CHARLES RATEMO NYAMWEYA**  
**ALICE KERUBO NYAMBATI**  
*(Representatives of the estate of*  
**SAMSON NYAMBATI NYAMWEYA (Deceased)---**

**RESPONDENTS**

**ESTATE OF DAVID MOGAKA NYAMWEYA-----**  
**RESPONDENT**

**RULING**

1. By an application dated **9/1/2026**, the court is asked to order Charles Ratemo Nyakweya and Alice Kerubo Nyambati, being the legal administrators of the estate of the late Samson Nyambati Nyamweya, to execute and transfer the **L.R. 32829/5**, part of Manor House Farm, and **L.R No. 32829/7**, in favour

of the applicants, being the administrators of the estate of the late Andrew Achoki Mogaka, in default, the Deputy Registrar of the court to do so.

- 2.** The reasons are that the said legal administrators are unavailable or unwilling to cooperate to enable the execution of the process.
- 3.** On the face of the application and the supporting affidavit of Job Mecha Achoki, sworn on **9/1/2026**, on behalf of the applicants, it is deposed that the late Andrew Achoki Mogaka passed on, on **14/8/2018**. The deponent deposes that by consent of the parties, the court directed that the County Surveyor carry out a survey exercise, which was completed on **27/5/2021**, and seven deed plans were issued thereafter by the Director of Surveys in compliance with the court's decree.
- 4.** The applicant deposes that the legal representatives of the late Samson Nyambati Nyamweya, who hold a grant with respect to the estate of the deceased, out of family disagreements, have not moved the court to confirm the grant with respect to the estate of David Mogaka Nyamweya, the applicant deposes, that it was represented by Teresia Nyasuguta Mogaka and Ratemo Nyambabi, holding a grant

issued in Nairobi, but both died before completing the administration of the estate of the deceased.

5. The applicant deposes that Dionysius Maranga Nyasae's name, though not entered in the land register of Manor House Farm, was recognized by the court. It is said that the said person is alive and also seeks to have his interest transferred.
6. The applicants urge that the court should, in the circumstances, assist them by issuing the orders sought so that their interests can be transferred as per the shares identified in the Deed Plan **Nos. 450469, 450475, 450472, and 450474.**
7. The applicants depose that this matter has been in court for the last **20 years** and that it is in the interest of justice to grant the reliefs sought, following the determination of the rights of the parties. The applicants aver that the right of the parties already determined should not be hampered by the wrangles in the estate of the 1<sup>st</sup> defendant or inaction of the estate of David Mogaka Nyaweya, especially when the surveyor has completed its work in respect to each party's share, with no complaint from any quarters.
8. In oral submissions made on **17/2/2026**, Mr. Samba learned that counsel for the applicants submitted that the subject matter is a partnership property.

Learned counsel submitted that under **Order 24 Rule 10** of the Civil Procedure Rules, the grant of letters of administration is not a requirement for a decree to be executed.

- 9.** In this case, learned counsel submitted that the judgment debtors and especially the legal representatives of the estate of the 1<sup>st</sup> defendant have declined to execute the decree, whereas the legal representatives of the estate of the 2<sup>nd</sup> defendant are unable to agree amongst themselves.
- 10.** Learned counsel submitted that since the survey would have been completed, and that the decree is not stale, the court should grant the orders sought. Miss Kemboi, learned counsel appearing for the co-decree holder, associated her submissions with those of the applicants' counsel.
- 11.** It is not disputed that a decree of this court was issued on **6/11/2003**, declaring the plaintiffs and the defendants equal shares in assets of a partnership being **L.R. No. 2050/7, 2050/9, and 3024/1**, comprising **461 acres**. The deed plans **No. 450468, 450469, 450470, 450471, 450472, 450473, and 450474** have captured the said entitlements since **27/5/2021**.
- 12.** There is no dispute that the partners, except one, have all passed on, and the beneficiaries to their

estate are entitled to the fruits of the judgment and decree of this court.

**13.** A decree holder is entitled to the execution of a decree even after a judgment debtor has passed on before execution of the decree has been fully satisfied.

**14.** The applicant has explained the circumstances and the efforts made so far in furtherance of the execution of the decree post-deaths of both the initial parties to the decree.

**15.** In the circumstances, I find it is in the interest of justice to grant the orders sought.

**(a) An order is hereby made that Charles Ratemo Nyakweya and Alice Kerubo Nyambati, as the legal administrators of the estate of the late Samson Nyambati Nyamweya, do execute and transfer the L.R. No.32829/5, part of Manor House Farm, and L.R No. 32829/7, in favour of the administrators of the estate of the late Andrew Achoki Mogaka, in default, the Deputy Registrar of the court to execute.**

**16.** Orders accordingly.

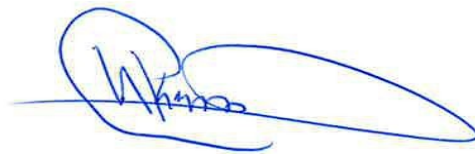
**Ruling dated, signed, and delivered via Microsoft Teams/Open Court at Kitale on this 24<sup>th</sup> day of March 2026.**

**In the presence of:**

Court Assistant - Dennis

Miss Nafula Samba for the Applicants present

No appearance for the respondents



**HON. C.K. NZILI  
JUDGE, ELC KITALE.**