

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ELDORET
SUCCESSION CAUSE NO. 274 OF 2004

IN THE MATTER OF THE ESTATE OF ISAAC KIHARA MIROBI (DECEASED)

MARY NYAWIRA MWANGI.....1ST PETITIONER-ADMINISTRATOR
JOHN N. WARORUA.....2ND PETITIONER-ADMINISTRATOR

VERSUS

MARY NJOKI WARUIRU.....OBJECTOR

RULING

1. Before this Court for determination is a Summons for Confirmation of the Grant of Letters of Administration issued herein as well as the Protest filed in opposition thereto.
2. The deceased, **Isaac Kihara Mirobi**, a military officer of the rank of a Major, died intestate on 28/05/2004 at the age of 42 years. On 20/09/2004, the Petitioners, as wife and brother-in-law, respectively, jointly petitioned for Grant of Letters of Administration Intestate in respect to the estate. In the Petition, the 1st Petitioner listed herself and her 3 sons as the only survivors of the deceased. Regarding properties left behind by the deceased, she listed a motor vehicle, a bank account and 2 parcels land, namely, **Nanyuki Municipality Block 2/349 (Kilimo)** and **Nanyuki Municipality Block 2/351 (Kilimo)**. The Grant was then issued to the Petitioners, jointly, on 23/11/2004, and on 23/05/2005 they filed the Summons for Confirmation of Grant of the same date.
3. However, on 14/07/2005, the Objector, also claiming as a widow of the deceased, filed a challenge to the Grant and filed a Cross-Petition. The grounds she cited were that she had no notice of these Succession proceedings, that the Petitioners had omitted her name and those of her children as beneficiaries, and that the 2nd Petitioner was a stranger.
4. The Objection was then canvassed by way of a **viva voce** trial in which 8 witnesses testified but which however took quite a long time as it proceeded from about November 2005 but was not concluded until February 2017. In the process, it was partially heard by various Judges, namely, **Gacheche J, Kaburu Bauni J, Mwilu J (as she then was)**, and finally, **Githua J**, whose Judgment was read and delivered on her behalf on 14/05/2019, by **Sewe J**.
5. In her Judgment, **Githua J** found that the Objector had failed to prove that she was a “**wife**” to the deceased and thus, she was neither a “**widow**” nor a “**dependent**” of the deceased, and thus not entitled to any share from the estate. The Judge then declared the 1st Petitioner to be

the only known “*wife*” and “*widow*” to the deceased, but however found both the 1st Petitioner’s and the Objector’s children to be “*dependents*” of the deceased. She stated that she would have also distributed the estate save that during the trial, the 1st Petitioner had introduced some properties that were not in the initial schedule of properties that she had initially presented and that valuation reports for the properties listed had also not been presented. She therefore proceeded to strike out the Summons for Confirmation of Grant and directed the Administrators to file, within 30 days, a fresh Summons which would include all known assets of the estate and all beneficiaries.

6. For various reasons however, the Petitioners did not immediately comply with the timelines given as it was not until 10/02/2021, almost 2 years later that they filed the fresh Summons for Confirmation of Grant, dated 9/02/2021. Their proposed mode of distribution was premised as follows:

Property	Distribution	Description
Nanyuki Municipality Block 2/349	1 st Petitioner (whole)	widow
Funds held at Barclays Bank Account (Kshs 1,200,000/-) and by the Public Trustee (Kshs 200,000/-) amounting to Kshs 1,400,000/- in total	1 st Petitioner-Kshs 900,000/- Duncan Mwangi Kihara-Kshs 100,000 George Kariuki Kihara-Kshs 100,000 James Mirobi Kihara-Kshs 100,000 Suzan Wamucii Kihara-Kshs 100,000 Solomon Waruhiu Kihara-Kshs 100,000	widow 1 st Petitioner’s son 1 st Petitioner’s son 1 st Petitioner’s son Objector’ daughter Objector’s son

Affidavit of Protest

7. In opposing the Petitioner’s proposal above, the Objector on 15/03/2021, filed the Affidavit of Protest sworn on 9/03/2021. She deponed that the Petitioners had deliberately omitted properties belonging to the estate and thus, the Application is full of omissions intended to misguide the Court. She urged that it is important that before the Court proceeds to confirm the Grant, the Administrators be compelled to produce current searches of all the parcels of land registered in the name of the deceased. She averred that the Petitioners had omitted 2 other parcels of land, namely, **Nanyuki Municipality Block 2/351 (Kilimo)** and **Nanyuki Municipality Block 2/353 (Kilimo)** each measuring approximately 0.00776 Hectares, respectively, and also the motor vehicle registration number **KSZ 527**, and shares at

Harambee Savings & Credit Co-Operative Society. She contended further that although the Petitioners had included the funds held at the **Barclays Bank** and by the **Public Trustee**, figures given for both are inaccurate, and that the funds being held at the Public Trustee as at September 2019 was Kshs 1,248,727.60, and not Kshs 1,200,000/-. Regarding the funds held at **Barclays Bank**, she urged that a bank statement be filed to establish the exact amount. She averred further that under the law of intestate succession, the estate is statutorily left to the surviving children while the surviving spouse is only entitled to a life interest together with any income to the estate, including but not limited to rent, dividends and pensions. According to her, the mode of distribution proposed by the Petitioners is unbalanced, skewed, unfair and not in the best interest of all the beneficiaries. She then her version of her proposed mode of distribution in the following terms.

Property	Distribution	Description
Nanyuki Municipality Block 2/349	Susan Wamucii Kihara	Objector' daughter
	Solomon Waruhiu Kihara	Objector' son
Nanyuki Municipality Block 2/351	1st Petitioner	widow
	Duncan Mwangi Kihara	1st Petitioner's son
	George Kariuki Kihara	1st Petitioner's son
	James Mirobi Kihara	1st Petitioner's son
Nanyuki Municipality Block 2/353	To be sold and proceeds shared equally among all dependents	All dependents
Motor vehicle Registration No. KSZ 527	To be sold and proceeds shared equally among all dependents	All dependents
Shares at Harambee Savings Sacco and funds in Barclays Bank	To be distributed among all the dependents	All dependents
Gratuity funds held by the Public Trustee	To be distributed among all the dependents	All dependents

8. In the end, she reiterated that the Petitioners be compelled to furnish current searches for all the parcels of land and the said motor vehicle, bank statement, and valuation Reports for all the properties as was ordered by the Court in its Judgment dated 14/.05/2019.

9. The parties were then given time to attempt Mediation but the same failed and it was then directed that the matter be canvassed by way of written Submissions. Pursuant thereto, the parties filed Witness Statements and bundles of documents.

Witness Statements

10. In her Witness Statement dated 8/07/2021, the Objector basically reiterated the matters already stated in her Affidavit of Protest.
11. The 1st Petitioner, on her part, in her Witness Statement dated 23/06/2021 reiterated that the 3 assets/properties listed in her Summons for Confirmation of Grant were the only assets available in the estate. Regarding the parcel of land **Nanyuki Municipality Block 2/351**, she stated that the same was gifted by the deceased to the **New Jerusalem Church** in Nanyuki in the year 1988 or thereabouts. Regarding the motor vehicle, she stated that the same was left by the deceased at a garage as the engine was damaged, that when the deceased died, she went to the garage to inquire but found that the garage was no longer there and there was a supermarket built where the garage had been, and that her efforts to trace the whereabouts of the garage have proved futile. She did not however mention anything about the shares alleged by the Objector to be held by the deceased at **Harambee Savings Sacco**.

Objector's Viva Voce Testimony

12. The Objector, led in her evidence by her Counsel, **Ms. Oduor**, adopted her Witness Statement, and basically reiterated the matters she had already stated both in her Statement and in her Affidavit of Protest. She also produced the exhibits contained in her List of documents, namely, copies of title deeds for the 3 said parcels of land, copy of a card from **Harambee Savings Sacco Ltd** and a copy of an undated Agreement indicating purchase of the said motor vehicle by the deceased. She added that the sum of Kshs 147,000/- which the deceased held at **Harambee Sacco Ltd** was withdrawn by the 1st Petitioner during the pendency of this case, and pointed out that she served a Notice to Produce upon the Petitioners to produce Search Reports for the parcels of land and for the said motor vehicle and bank statements. Under cross-examination by **Ms. Ngala**, Counsel for the Petitioners, the Objector conceded that in her Judgment, **Githua J** had declared her as not being a “*wife*” to the deceased. Regarding the rule in Savings Saccos that funds are normally released to the next of kin named by a deceased, she denied any knowledge thereof. She also stated that she had no knowledge of the Petitioner’s allegation that the deceased had gifted the parcel of land **Nanyuki Municipality Block 2/351 (Kilimo)** to a church. Regarding the motor vehicle, she admitted that she had never seen the 1st Petitioner with it. She conceded that the

Petitioners had included the Objector's children in the distribution proposal but argued that the Petitioners cannot decide for her and her children how the estate should be distributed. She also conceded that she had not brought any evidence to show that the 1st Petitioner had withdrawn the **Harambee Sacco** money. In the end, she stated that the proposed allocation given to her children is unfair.

Petitioners' Viva Voce Testimony

13. The Petitioner, led by **Ms. Ngala**, also adopted her Witness Statement and also basically reiterated the matters contained in her Statement. She then testified that she did not have a log-book for the said motor vehicle because the deceased had not concluded repayments for the loan that he used to purchase the same. Regarding where she resides, she stated that she lives in a parcel of land owned by the father of the deceased (her father-in-law), and denied that she resides in any of the parcels of land listed in the Petition. She reiterated that the deceased had sold the 2 properties, namely, **Nanyuki Municipality Block 2/349 (Kilimo)**, and **Nanyuki Municipality Block/2/353 (Kilimo)**, and donated the third plot, **Nanyuki Municipality Block 2/351(Kilimo)**, to a church. She stated that the only asset available for distribution is the Pension money held by the **Public Trustee**. She then produced a copy of the title deed for the parcel of land **Nanyuki Municipality Block 2/351 (Kilimo)** indicating that the property is in the name of a third party, and which is the only exhibit she produced out of the 3 documents mentioned in the List of documents. In cross-examination, she stated that the 2nd Petitioner is a cousin to the deceased, not her (Petitioner) brother. She denied knowledge of the property described as **Nanyuki Municipality Block 2/353(Kilimo)** but conceded that the title deed on record indicates that it is in the name of the deceased. Regarding the church to which she alleged one of the parcels of land was donated by the deceased, she stated that it is at the same church where she and the deceased conducted their wedding. About the sale of some parcels of land by the deceased, she conceded that she had not produced any evidence such as Agreements for Sale to prove the same. When referred to the title deed for **Nanyuki Municipality Block 2/349(Kilimo)**, she pointed out that it is in the name of one **Augustine Wangombe Tumuti** but conceded that the Search indicates that the title deed was issued on 18/06/2010, 6 years after the deceased died on 28/05/2004. She conceded that she is the one who signed the transfer yet she was not a joint owner, and admitted that she received the money but she did not share it with the Objector's children. Regarding the parcel of land, **Nanyuki Municipality Block 2/353 (Kilimo)**, she stated that she does not know the owner thereof but conceded that it was initially in the name of the deceased, although she agreed that she had not produced evidence of the transfer. She then contended that she and the deceased purchased another motor vehicle Nissan Matatu but

which the deceased sold 2 days to his death, that she did not have the Agreement for sale but that the money was paid to them.

Written Submissions

14. Upon close of the trial, the parties filed Written Submissions. The Objectors filed the Submissions dated 7/10/2024, while the Petitioners' is dated 28/10/2024.

Objector's Submissions

15. Counsel for the Objector referred to the Judgment of **Githua J** dated 30/04/2019 and pointed out that the Judge observed that some properties that had featured in the trial were not mentioned in the initial Summons for Confirmation of Grant, and that the Judge then directed that fresh Summons be filed to include all the known assets of the deceased. According to her, the Petitioners have failed to comply with the said orders as they omitted 2 parcels of land, namely, **Nanyuki Municipality Block/2/351 (Kilimo)** and **Nanyuki Municipality Block 2/353(Kilimo)**, and also the motor vehicle registration number **KSZ 527**. Regarding the 1st Petitioner's allegation that **Nanyuki Municipality Block 2/351 (Kilimo)** was gifted to a church, she submitted that no proof was produced. She cited the case of **Re Estate of the late Gideon Manthi Nzioki (Deceased)** on how allegations of "gifts *inter vivo*" is to be proved, and submitted that the Petitioners failed to adduce evidence to support the allegation, and that since the property is still in the name of the deceased, it should be included in the estate.

Petitioner's Submissions

16. Counsel for the Petitioner cited **Section 27 and 29(1)** of the **Law of Succession Act** and submitted that the Petitioner's and the Objector's children are "*dependents*" of the estate. She submitted further that under **Section 35**, the 1st Petitioner, as the only spouse, is entitled to life interest in the estate of the deceased. She cited the case of **Tau Katungi v Margrethe Thorning Katungi & Peter David Belford Walker [2014] KEHC 3226 (KLR)**, and also the case of **Eddah Wanngu & Johana Karucho v Sacilia Magwi Kivuti (Deceased) substituted with Ribereta Ngai [2021] KEHC 1142 (KLR)**. She then urged that the proposal by the 1st Petitioner is fair and equitable as she does not have any other source of income and the proposed Kshs 900,000/- would cater for her needs in her old age. She also urged that there is no evidence that the 1st Petitioner's children have been settled in any of the parcels of land owned by the deceased prior to his death. She cited the case of **Grace Chebet Sisimwo & 4 others v Everlyne Cherukut Sisimwo & another [2019] eKLR**. She then urged that at the time of the death of the deceased, all the children of the deceased were

below the age of majority, that they recently became adults and since it is only the monies that are to be distributed, the proposed sum of Kshs 100,000/- is reasonable in the circumstances.

Determination

17. It is evident that the issues for determination in this matter are the following:

i) **What are the properties forming the estate of the deceased?**

ii) **How should the estate be distributed amongst the beneficiaries?**

18. As aforesaid, the Objector has already been declared in this matter as not being a proven wife of the deceased, and thus not a beneficiary of the estate herein, there being no evidence of her marriage to the deceased. I believe she therefore continued to participate in this matter simply because her children, whom the Court recognized as beneficiaries were still under-age at the material time.

19. Be that as it may, the Petitioners urged that regarding parcels of land, the only one available for distribution in the estate is **Nanyuki Municipality Block 2/349 (Kilimo)** measuring $\frac{1}{4}$ acre. They claimed that **Nanyuki Municipality Block 2/351 (Kilimo)** was donated by the deceased, during his lifetime, to a church. Regarding the motor vehicle registration number **KSZ 527**, they also claimed that it is no longer available as it was abandoned by the deceased at a garage when he was still alive after it developed mechanical problems, and that the subject garage closed operations and by reason thereof, they do not know the whereabouts of the motor vehicle. According to them, the only other available assets are funds held at the **Barclays Bank** and Pension payment held by the **Public Trustee**.

20. According to the Objector, however, there is no evidence that **Nanyuki Municipality Block 2/351 (Kilimo)** was donated by the deceased to a church. She also urged that there is a third parcel of land which the Petitioners did not disclose, namely, **Nanyuki Municipality Block 2/353 (Kilimo)**.

21. I have to state that Counsels for both sides have not impressed me as being industrious. With due respect, they both conducted this case too casually and with evident lethargy, and as such, they did not sufficiently assist the Court. For instance, although both sides alleged various properties as forming the estate of the deceased, they did not bother to supply the Court with sufficient documentation to support the claims, or to prove the existence thereof, or to even demonstrate that the properties were indeed, owned by the deceased. Where they

did supply documents, the same were either very old and thus not reflective of current status, and in some instances, illegible. For these reasons, I was unable to deliver this Ruling on the initial date of 4/04/2024 when it was due. Instead, I had to give directions to the parties to procure and supply specified supporting documents to the Court before I conclude the Ruling. Although the parties have now, pursuant to the directions, supplied some of the documentation, there is still much elaboration required to bring out some clarity but Counsels have still not deemed it fit to address the same. It is like documents have simply been thrown at the Court and the Court asked unravel for itself the many unexplained gaps.

22. I will now set out the status of the properties as indicated by the latest documents supplied in respect to each one alleged. I will begin with those cited by the Petitioners.

23. In the Petition, there is listed the motor vehicle registration number **KSZ 527 Datsun Pick-Up.**, and a copy of a Sale Agreement was produced indicating purchase of the vehicle by the deceased sometime in the year 1998. According to the 1st Petitioner, the deceased had taken the motor vehicle to a garage for repairs but died before collecting it, and that when she (1st Petitioner) went to the garage to inquire about the vehicle, she found that the garage was no longer there, and there was a supermarket built at the spot earlier occupied by the garage. She therefore testified that her efforts to trace the location where the garage could have relocated proved futile. This explanation by the 1st Petitioner, although it was denied by the Objector, was not controverted and I therefore have no choice but to treat the motor vehicle as no longer in existence.

24. The second and third properties listed in the Petition are the parcels of land, **Nanyuki Municipality Block 2/349 (Kilimo)**, and **Nanyuki Municipality Block 2/351 (Kilimo)**. The second property is the one the Petitioners claimed that the deceased donated to a church. However, both the Search Report dated 25/05/2025 now supplied by the Petitioners and the copies of Green Cards now supplied by the Objector, pursuant my said post-trial directions, confirm that the properties were transferred from the name of deceased and registered in the name of one **Augustine Wangombe Tumuti** on 18/06/2010. Considering that the deceased died 6 years earlier in the year 2004, no explanation has been offered on how the transfers were effected after the death of the deceased and before distribution of the estate was conducted by the Court. The identity of the transferee, the said **Augustine Wangombe Tumuti** and his relationship to the deceased, if any, has also not been revealed. Further, no copies of the transfer documents have been supplied, although the 1st Petitioner conceded that she is the one who signed the transfer document for **Nanyuki Municipality Block 2/349**

(Kilimo) yet she has never been a co-owner, and also that she received the payment . Although in the post-trial directions, I gave both parties, particularly the Objector, leave to serve the said **Augustine Wangombe Tumuti** by any appropriate means and thus invite him to appear in Court to give an explanation on how he acquired the properties, neither side seems to have made any effort to do so since I have not come across any Return of Service filed. Although therefore all indication is that the 1st Petitioner is the one who illegally sold the properties, in the absence of the transferee, **Augustine Wangombe Tumuti**, being given an opportunity to be heard, I am unable to revoke the transfer or the title issued in his name. Doing so will be to condemn him unheard, a step which is not permitted in our procedures.

25. The fourth asset listed in the Petition is the money held at the **ABSA Bank** (formerly **Barclays Bank Ltd**) in account number 8135039. Since the documents supplied did not indicate the sum available in the account, in the post-trial directions, I required the parties to procure and supply to the Court a statement or some of communication from the bank indicating the amount held at the account, and I issued an order to that effect to the bank. Pursuant thereto, the Petitioner has now procured and supplied the letter dated 4/06/2025 from the bank informing the Court that the balance held in the account is **Kshs 215,249.35**, which amount is however indicated to have since been remitted to “*unclaimed asset*”, which I understand to mean remitted to the **Unclaimed Financial Assets Authority (UFAA)**. That money is therefore available for distribution.

26. On the part of the Objector, she alleged, as aforesaid, that the Petitioners had omitted a fifth parcel of land, namely, **Nanyuki Municipality Block 2/353 (Kilimo)**. She then produced a copy of the Green Card for the property, pursuant to the post-trial directions, which however indicates that the property was transferred from the name of the deceased to one **John Wachiuri Kibiri** on 30/09/2010. Like in the case of the two earlier mentioned parcels of land, there is no explanation on how the transfer was effected after the death of the deceased and before distribution of the estate was conducted by the Court. The identity of the transferee, the said **John Wachiuri Kibiri** has also not been revealed, and neither has any copies of the transfer documents been supplied. Again, like in the case of the earlier named transferee, although I gave both parties leave to serve the said **John Wachiuri Kibiri** thus inviting him to appear in Court to give an explanation on the above matters, neither side seems to have made any effort to do so since I have not come across any Return of Service in the record. As before, in the absence of the transferee, **John Wachiuri Kibiri**, being

given an opportunity to be heard, I am unable to revoke the transfer or the title issued in his name as doing so will be to condemn him unheard.

27. The Objector protested further that the Petitioners had also not disclosed the existence of shares held at the **Harambee Savings & Credit Co-Operative Society**. The copies of the documents procured and supplied pursuant to the post-trial directions indicate that the amount of Kshs 160,740.95 being apparently the value of the shares was paid out to the 1st Petitioner way back in the year 2004. According to the 1st Petitioner, she is the one who was paid the money as she is sole person nominated by the deceased, in his wisdom, as the next of kin. Since this explanation was not controverted, I have no material to disbelieve it. That asset is therefore no longer available for distribution.

28. Both sides have also alluded to the existence of funds held at the **Public Trustee** as Pension dues payable to the estate. According to the Petitioners the amount, as at September 2019, was about Kshs 1,200,000/-. Curiously however, neither side bothered to supply the Court with any supporting document to verify the existence of the funds and the amount thereof. I am therefore unable to verify the existence of this asset.

29. In conclusion, since at the trial, the 1st Petitioner seemed to be aware that most of the said properties had already exchanged hands and acquired by third parties, it defeats me why she still went ahead and listed some of these same properties in the Petition as available for distribution as part of the estate of the deceased. Being in the know about the long-concluded transfer of the parcel of land, **Nanyuki Municipality Block 2/349 (Kilimo)** to a third party, and most probably the seller, why did she still submit a proposed mode of distribution asking that the same parcel of land **Nanyuki Municipality Block 2/349 (Kilimo)**, be allocated to her? What kind of game was she playing at the Court? Did she simply apply for the Grant of Letters of Administration as a ploy or a cover-up for her illegal sale of the properties to third parties? Honestly, I was not at all impressed by the 1st Petitioner, who, despite her age, came out as very sly and dishonest. She definitely played a big part in the illegal transfer of the properties to the faceless third parties. Had it not been for the fact that the Objectors made no effort to serve the transferees or involve them in this case, I would have obviously revoked the transfers and reverted them to the estate for distribution.

30. Under the above circumstances, should the Objector and/or her children wish to pursue recovery of the said parcels land, I believe their recourse can only be at the **Environment**

and Land Court (ELC), if at all. However, they may have to first surmount the hurdle that they are not Administrators of the estate of the deceased to enable them file a suit on behalf of the estate. To avoid the risk of being accused of pre-judging a possible lawsuit elsewhere, I will say no more about this fact.

Final Orders

31. In light of the foregoing, I make the following declarations and orders:

- i) The motor vehicle registration number **KSZ 527** alleged to form part the estate of the deceased is no longer in existence since its whereabouts and condition is unknown. It is by reason thereof, not available for distribution herein.
- ii) Regarding the shares held at **Harambee Savings & Credit Co-Operative Society**, the 1st Petitioner’s explanation that the payment thereof was made to her as the next of kin nominated by the deceased, not having been controverted, is accepted as plausible. The said shares or value thereof are therefore no longer available for distribution.
- iii) The titles to the parcels of land described as **Nanyuki Municipality Block 349 (Kilimo)**, **Nanyuki Municipality Block 2/351(Kilimo)**, and **Nanyuki Municipality Block 2/353 (Kilimo)** also alleged to form part of the estate of the deceased were long transferred to third parties who now hold titles thereto, albeit under evidently suspicious manner considering that the transfers were apparently effected long after the death of the deceased. Since however the persons indicated or named as transferees were never served to appear in Court so as to be afforded the opportunity to explain the manner in which they acquired the properties, this Court is unable to revoke the titles acquired by such transferees and/or revert the properties to the estate of the deceased.
- iv) The sum of Kshs 215,249.35 initially held at the **ABSA Bank** (formerly Barclays Bank Ltd) in account number 8135039, but now indicated to have since been remitted to the **Unclaimed Financial Assets Authority (UFAA)**, shall be distributed equally amongst the 5 children of the deceased, as follows:

1st Petitioner’s Children		Objector’s Children	
i)	Duncan Mwangi Kihara	i)	Susan Wamucii Kihara

ii)	George Kariuki Kihara	ii)	Solomon Waruiru Kihara
iii)	James Mirobi Kihara		

The 1st Petitioner, due to her conduct, including her evidently active role and participation in the illegal transfer and/or sale of estate properties to third parties, is excluded from benefiting from this asset.

- v) The existence of alleged Pension dues payable to the deceased and alleged to be held currently by or at the Public Trustee, and the amount thereof, has not been supported or proved by means of any documentary evidence. If and should such documentary evidence become available, the parties shall be at liberty to return to Court and apply for the distribution thereof, in which case, the funds therein shall also be distributed equally amongst the 5 children of the deceased, as listed above. Again, the 1st Petitioner, due to her conduct, including her evident active role and participation in the illegal transfer and/or sale of the estate properties to third parties, is excluded from benefiting from this pay-out.

- vi) This being a family, the preferable order on costs, which I hereby adopt, is that each party shall bear her own costs.

- vii) Any party aggrieved by the decision hereinabove has **forty-five (45) days** leave to file an appeal, and which period shall also act as stay against implementation or execution of this Judgment.

DELIVERED, DATED AND SIGNED AT ELDORET THIS 18TH DAY OF MARCH 2026

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WANANDA JOHN R. ANURO
JUDGE

Delivered in the presence of:

Ms. Ngala for the Objector

Mr. Oduor for the Petitioners

Court Assistant: Brian Kimathi