

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. E800 OF 2024

IN THE MATTER OF THE ESTATE OF DAVID AMILCAR
SHIKOMERA MAJANJA alias DAVID SHIKOMERA
MAJANJA (DECEASED)

JUDGMENT

The Deceased David Amilcar Shikomera Majanja died on 10th day of July 2024 at the Nairobi Hospital. On 2/9/2024 Joseph Ndungu Kihanya filed a petition for Grant of Letters of Administration with a written Will annexed on the grounds that he was named as executor of Deceased's Will dated 21st June 2014. He annexed a copy of the Will of the deceased. On the 17th day of December 2024 the grant of probate with written will was issued to Joseph Ndungu Kihanya and Steve Biko Lusemo in their capacity as the executors of the Will.

The executors filed Summons for confirmation dated 18th July 2025. The same was heard by this court on 21st July 2025 and all the seven beneficiaries consented to the confirmation. A Certificate of confirmation as per the Will dated 21st June 2024 was issued on 21st July 2025.

The court noted that some of the deceased's properties which form part of his estate were not in the will.

By consent the court appointed Gerishom Lujitio Majanja (father) and Genard Louis Muhangi Majanja as administrators of Deceased's intestate properties. The administrators then informed Court that a total of 15 properties formed part of the intestate Estate. The court directed the administrators to file Summons for confirmation within 30 days. They were not able to do so and sought that Court grant them another 45 days to do so.

Before they filed the Summons Mr. Murage for Martin Aluvisi filed application dated 5th October 2025 seeking declaration that Pension funds and Life insurance proceeds are choses in action and therefore payable to Martin as per the Will. This Court by ruling dated 11th February 2026 dismissed the application and declared that the deceased having not nominated beneficiaries in Pension funds and group life insurance. Those funds formed part of the intestate property.

The court directed the administrators to file summons for confirmation within 14 days. That is by 24th February 2024 and the same be heard on 4th March 2026. When the matter came up for hearing on 4th March 2026 Mr Murage for Garrison Lujitio Majanja informed court that he filed the following applications;

- 1. Application dated 25th January 2026 seeking the Court to revoke the Grant issued on 21st July 2025.**
- 2. Application dated 15th January 2026 seeking that the executors render accounts.**
- 3. Application dated 28th January 2026 seeking orders to be issued to the Chief Registrar of Judiciary to release Ksh.500,000/- to Gerrishom for treatment**

Mr Oundo confirmed to Court that they have filed response to the applications. He also informed Court that Gerard Louis the 2nd administrator had filed Summons for Confirmation and the proposed mode of distribution.

Mr. Muriithi for the executors informed Court that the Application for revocation of Grant does not concern them. In

respect of the application dated 15th January 2026 seeking accounts they had filed a response and in respect of the Summons for confirmation it does not concern them.

Mr Murage then informed Court that he will file Mr Gerrison's proposed mode of distribution in response to the Summons for Confirmation by close of business on 5th March 2026.

The Court issued directions that the application and summons be canvassed by way of written submissions and be heard together.

The application dated 28th January 2025 seeks the following orders:

1. **THAT this application be certified as urgent and be heard ex parte in the first instance, and thereafter be listed for hearing inter partes.**
2. **THAT the Grant of Letters of Administration Intestate issued by this Honourable Court on the 21st day of July, 2025 to GERISHOM LUJITIO MAJANJA and GENARD LOUIS MUHANJI MAJANJA in respect of the estate of the deceased herein be revoked and/ or annulled forthwith.**

3. **THAT upon revocation of the said grant, this Honourable Court be pleased to issue a fresh Grant of Letters of Administration Intestate to GERISHOM LUJITIO MAJANJA under Section 39 of the Law of Succession Act.**
4. **THAT pending the hearing and determination of this application, this Honourable Court be pleased to issue conservatory orders restraining GENARD LOUIS MUHANJI MAJANJA, whether by himself, his agents, servants, or advocates, from threatening, intimidating, harassing, intermeddling with, or otherwise interfering with the administration of the estate of the deceased.**

The grounds for the Application are:

- a) **THAT a Grant of Letters of Administration Intestate in respect of the estate of the deceased herein was issued by this Honourable Court on the 21st day of July, 2025 to the Applicant and the Respondent/Co-administrator as joint administrators.**
- b) **THAT the law contemplates that joint administrators shall act in good faith, mutual trust, cooperation, and fidelity, and in the best interests of the estate and all beneficiaries.**

- c) **THAT since the issuance of the said grant, the relationship between the Applicant and the Respondent/Co-administrator has completely broken down, rendering joint administration impracticable, untenable, and inimical to the proper administration of the estate.**
- d) **THAT the Respondent/Co-administrator has, through written electronic correspondence and verbal communication, issued threats, intimidatory statements, and hostile communications towards the Applicant, including express threats to oppose lawful court processes, instigate criminal complaints, disavow sactions purportedly entered into on behalf of the estate, deliberately frustrate and delay the confirmation of grant proceedings, and otherwise weaponize the succession proceedings as a tool of coercion and intimidation against the Applicant, thereby undermining the fiduciary obligations imposed upon an administrator and rendering joint administration of the estate impracticable and untenable.**
- e) **THAT such conduct on the part of the Respondent/Co-administrator demonstrates open hostility, lack of trust,**

bad faith, and an unwillingness to jointly administer the estate, contrary to the fiduciary obligations imposed upon administrators under the Law of Succession Act.

The application is supported by the affidavit of Gerrishon Lujitio Majanja. sworn on 28th January 2026 where he reiterates the grounds of the application.

Gerald Louis Muhanji Majanja the Respondent filed a Replying affidavit sworn on 3rd March 2026 opposing the Application. His main ground is that as a Co-administrator he has assisted his father the applicant in opening an estate account, establishing an inventory of the assets of the estate in Kisumu Sheria Housing Property, Kakamega, Kajiado, Mwara. He depones that he has been cooperating with the applicant in identification of the property. He has also assisted the applicant in having meetings where distribution of the estate was discussed.

Mr Murage has submitted that proceedings to obtain the Grant were defective in substance as the Grant was obtained fraudulently and by means of untrue allegations and has

become useless and inoperative. He submits that the petition for intestate property was never filed, the 30 day notice was never issued.

On the ground that the Grant has become useless and inoperative he submits that the relationship between administrators has deteriorated to the extent to affect their fiduciary relationship to the beneficiaries of the estate.

Mr. Wandabwa for the respondent in response submitted that no grounds have been established for the revocation of the Grant. Counsel submits that the procedure was proper, the proceedings competent and there is no evidence that the Grant has become inoperative. The grounds for revocation of Grant is as provided for in section of 76 of the law of succession act. Section 76 provides:

Revocation or annulment of grant

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion— (a) that the proceedings to obtain the grant were defective in substance;

- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;**
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;**
- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-**
 - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or**
 - (ii) to proceed diligently with the administration of the estate; or**
 - (iii) to produce to the court, within the time prescribed, any such inventory**

or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or

(e) that the grant has become useless and inoperative through subsequent circumstances.

A perusal of proceedings in this file shows that on 21st July 2025, in the presence of all the parties the Court recorded:

Court: This Court has confirmed distribution of properties in the will. This Court notes that there are properties not in the Will which will form part of the estate and be managed as intestate.

Louis: I propose Garrison Majanja to be the administrator.

Priscilla: I propose Garrison Majanja

Janet: I propose Louise Majanja

Martin: I propose Garrison Majanja

Annette:typed- Louis Majanja

Court:

Upon hearing the beneficiaries except Alan this court appoint Gerrison Majanja and Louis Majanja as Administrator. Parties to file Summons for confirmation within 30 days hearing on 13th October at 11:00 a.m.

From these proceedings it is clear to me that the appointment of administrators was proposed by the beneficiaries. The Applicant Gerrison was also present and he had no objection. The process of appointment cannot therefore be said to be defective. Clearly a Petition in this estate had been filed, gazetted and there was no need in my view for another petition to be filed.

I find no merit in this application dated 28th January, 2026 which is hereby dismissed.

The second application is one dated 15th January 2026 by Martin Aluvisi Majanja seeking the following orders:

- a. Provision of accounts by the Executors in respect of the settlement amount of Kes. 18, 000, 000.00 (Settlement Amount) paid by NCBA Bank to the firm of Majanja Luseno & Company Advocates (Majanja Luseno) and arising from the settlement in Nairobi

HCCC 122 of 2014, Majanja Luseno & Company Advocates v NCBA Bank Limited (the Suit).

- b. An order to have the Executors and the firm of Kimani & Muriithi Associates (Kimani & Muriithi) to deposit in court the sum of Kes. 9, 000, 000.00 being 50% of the settlement amount.
- c. An order to have Kimani & Muriithi and any other person holding or controlling the settlement monies to release and disburse to the Applicant the sums due and payable to him from the Settlement Amount on the basis that the sums amount to a chose in action.

The executor filed replying affidavit sworn by Steve Luseno dated 16th January 2020. They have explained that they have rendered accounts to Martin. Rendering of accounts is the duty of executors under section 83 of the law succession act. The accounts having been rendered by the executors to the administrators or beneficiaries they have discharged their obligations.

On the Summons for confirmation, it is common ground that the deceased had 7 beneficiaries:

- a. **Gerishom Lujito Majanja — Father**
- b. **Priscilla Nthenja Majanja — Step Mother**
- c. **Genard Louis Muhanji Majanja — Brother**

- d. **Janet Masitsa Majanja — Sister**
- e. **Annette Lutivini Majanja — Sister**
- f. **Martin Jesse Majanja — Step Brother**
- g. **Allan Khamala Siema — Step Brother**

On 29th January 2026 Gerrison Majanja and Genard Majanja filed Summons for confirmation signed by the administrators and Priscilla Nthenya Majanja, Janet Masitsa Majanja, Annette Luvitini Majanja Martin Jester Majanja.

They proposed distribution of 33 properties of the estate to the beneficiaries.

The distribution did not include the pension funds from Judiciary and Life Insurance benefits. On 11th February 2026 the court declared that those benefits formed part of the intestate property of the deceased and should be distributed among the beneficiaries. The court advised the parties to file summons for confirmation to include these funds. Genard Louis Muhanji Majanja Co- administrator filed Summons dated 12th February 2026. Mr. Murage informed Court at the Co Administrator Gerishom Lujitio Majanja would file his proposed mode of distribution by the close of business on 5th March 2026.

As at the time of this judgment on 19th March, 2026 he has not filed any preferred mode of distribution by Gerishom. The Summons by Genard Louis Majanja is therefore not opposed as there is no Affidavit of protest filed promised by Counsel.

This Court had considered the proposed mode of distribution. It covers all the 32 parcels of land, 1 motor vehicle, pension funds and Group life insurance funds. Is it has also distributed the estate to all the beneficiaries. I find the distribution is fair, equitable and is in accordance with the law of succession act. I therefore confirm the Grant issued and the estate of the deceased David Amilcar Majanja aka David Shikomera Majanja be distributed as follows:

NAME	DESCRIPTION OF PROPERTY	SHARE OF HEIR
Gerishom Lujito Majanja	<ol style="list-style-type: none"> 1. ISUKHA/SHISWA 365 2. KAJIADO / KAPUTEI NORTH /63066 3. MAVOKO / BLOCK 3 / 17479 4. KAKAMEGA/BLOCK 11/ 177 5. LR 654/14 KISUMU KIBOS PLOT NO. 186 - Plot 186 (Kisumu – Sheria Housing Sacco) 6. KISUMU/BUOYE /5497 7. KISUMU/KORANDO/5994 8. MIWANI / MIWANI BLOCK 5/7 9. MBEERE/MBITA MBTA/2279 Plot 117 (Embu - Sheria Housing Sacco) 10. MBEERE/MBITA MBTA/2279 Plot 118 (Embu - Sheria Housing Sacco) 	To be <u>WHOLLY</u> acquired by the named beneficiary - Gerishom Lujito Majanja

Genard Louis Muhanji Majanja	<ol style="list-style-type: none"> 1. ISUKHA/SHISWA 181 2. KAJIADO / NTASHART 1581 Plot 44 (Ngong - Sheria Housing 3. Sacco) MAELA/NDABIBI BLOCK 2 33332 	To be <u>WHOLLY</u> acquired by the named beneficiary - Genard Louis Muhanii Majanja
Janet Masitsa Majanja	<ol style="list-style-type: none"> 1. KISUMU/OJOLA /6691 2. KISUMU/OJOLA /6692 3. KISUMU/OJOLA /5781 4. KISUMU/OJOLA /5780 5. KAJIADO / NTASHART 1583 Plot 45 (Ngong - Sheria Housing 6. Sacco) SUBA/KITAWA/48 	To be <u>WHOLLY</u> acquired by the named beneficiary — Janet Masitsa Majanja
Annette Lutivini Majanja	<ol style="list-style-type: none"> 1. ISUKHA/LUBAO 4856 2. ISUKHA/LUBAO 4855 3. 59923/31635 - Plot 48 (KINANIE 4. LUKENYA) LR 654/14 KISUMU KIBOS PLOT NO. 177 - Plot 177 Kisumu - Sheria 	To be <u>WHOLLY</u> acquired by the named beneficiary — Annette Lutivini Majania

	Housing Sacco)	
Martin Jesse Majanja	<ol style="list-style-type: none"> 1. ISUKHA / MUKHONJE 2109 2. 59923/31635 - Plot 43 (1<INANIE LUKENYA) 3. KISUMU/KORANDO/5977 	To be <u>WHOLLY</u> acquired by the named beneficiary — Martin Jesse Majanja
Allan Khamadi Siema	<ol style="list-style-type: none"> 1. MAVOKO / BLOCK 3 / 93393 2. KISUMU/KORANDO/5995 3. MAELA/NDABIBI BLOCK 2 33333 	To be <u>WHOLLY</u> acquired by the named beneficiary — Allan Khamadi Siema
Genard Louis Muhanji Majanja Janet Masitsa Majanja Annette Lutivini Majanja	<ol style="list-style-type: none"> 1. ISUKHA/VIRHEMBE/544 2. KAJIADO / NTASHART /14298 	To be owned <u>COMMON</u> by the named beneficiaries each getting an <u>EQUAL SHARE</u> Genard Louis Muhanji Majanja, Janet Masitsa Majanja & Annette Lutivini

		Majanja (1/3 share each)
B. JUDICIAL SERVICE GROUP LIFE ASSURANCE POLICY		
<u>SCHEDULE</u>		
NAME	DESCRIPTION OF PROPERTY	SHARE OF HEIR
Gerishom Lujito Majanja	Group life Assurance Policy held Judicial Service Commission	Kshs 10,000,200/- to Gerishom Lujito Majanja
Genard Louis Muhanji Majanja	Group life Assurance Policy held Judicial Service Commission	Kshs. 2,408,268 to Genard Louis Muhanji Majanja
Janet Masitsa Majanja	Group life Assurance Policy held Judicial Service Commission	Kshs. 2,408,268 To - Janet Masitsa Majanja
Annette Lutivini Majanja	Group life Assurance Policy held Judicial Service Commission	Kshs. 2,408,268 to Annette Lutivini Majanja
Martin Jesse Majanja	Group Life Assurance Policy held Judicial Service Commission	Kshs. 2,408,268 to Martin Jesse Majanja
Allan Khamadi Siema	Group life Assurance Policy held at Judicial Service Commission	Kshs. 2,408,268 to Allan Khamadi Siema

NAME	DESCRIPTION OF PROPERTY	SHARE OF HEIR
Gerishom Lujito Majanja	1. PENSIONS HELD BY NATIONAL SOCIAL SECURITY FUND	To be <u>WHOLLY</u> acquired by the named beneficiary Gerishom Lujito Majanja

D. MOTOR VEHICLES

NAME	DESCRIPTION OF PROPERTY	SHARE OF HEIR
Gerishom Lujito Majanja	1. MOTOR VEHICLE - KDD 882A	To be <u>WHOLLY</u> acquired by the named beneficiary Gerishom Lujito Majanja

Dated at Nairobi this 19th day of MARCH, 2026.

**S. N. RIECHI
JUDGE**

Original.