

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE NO. E014 OF 2025

**IN THE MATTER OF THE ESTATE OF THE LATE BETTY WANINI
KARARAHO**

(DECEASED)

JOSEPH **KARARAHO**
MWANGI.....PETITIONER

Coram: Before Justice R. Nyakundi

RULING

1. Before this court is summons for confirmation of grant dated on 10th March 2026 expressed to be brought under Section 40(1)(2) of the Law of Succession Act where the Applicant is seeking the following orders: -
 - a. *That the grant of letters of administration was made to the petitioner/applicant Joseph Kararaho Mwangi by this honorable court on 8th July 2025 in this matter be confirmed.*
 - b. *That there be no orders as to costs.*
2. This application is based on the following grounds:
 - a. That six months' statutory period for the confirmation of grant has lapsed.
 - b. That there has been no objection raised so far in the matter herein.
3. In support of the application is the affidavit of one Joseph Kararaho Mwangi who deponed as follows:
 - a. *That I am a male adult of sound minds and personal representative/ and or the administrator of the estate of Betty Wanini Kararaho who died intestate on 3/4/2016 hence competent to swear this affidavit.*
 - b. *That A grant of letters of administration intestate of the estate the above named deceased was made to me in this matter on 8th July, 2025 and is now due for confirmation.*

- c. *That no objection has been raised in this matter.*
- d. *That the deceased was survived by the following dependents:*
 - i. *Joseph Kararaho Mwangi son - ID No. 105746079*
 - ii. *Gladys Muluki Kararaho-Daughter - ID No. 23308051*
 - iii. *Jackline Sidi Fojdar-Daughter - ID No. 20555828*
 - iv. *Mary Ruguru Kararaho-Daughter - ID No. 23281644*
- e. *That the deceased person was the sole owner and proprietor of land parcel number ELDORET MUNICIPALITY BLOCK 13/19 YAMUMBI FARM*
- f. *That the identification and shares of all persons beneficially entitled to the above estates has been ascertained and determined as follows: -*

Schedule

Yamumbi Farm

Joseph Kararaho Mwangi-.....absolute

- g. *That no application for provision for dependents is pending.*
 - h. *No estate duty is payable in respect of the parcels herein.*
 - i. *I pray to this Honorable court to confirm the grant issued herein in respect of the mode of distribution as made in paragraph (6) above.*
4. In support of the application also is the affidavit of Jackline Sidi Fojdar, Mary Ruguru Kararaho, Gladys Muluki Kararaho who deponed as follows:
- a. *That we are Kenya female adults of sound mind hence competent to swear this affidavit and declare as follows: -*
 - b. *That we are daughters of the deceased herein above.*
 - c. *That we are among the beneficiaries herein.*
 - d. *That we know the petitioner herein as our brother.*
 - e. *That we have executed the consent dated 10th March 2026.*
 - f. *That we confirm that the whole parcel number Yamumbi Farm to be granted to the petitioner Joseph Kararaho Mwangi in the absolute.*

Decision

5. In Kenya, the confirmation of grant of letters of administration is a crucial state in the succession process, transitioning the estate from temporarily administration to the formal distribution of assets to beneficiaries. The substantive provisions applicable is Section 71, 72 & 73 of the Law of Succession Act. I consider the following principles to be part of the guiding pillars in confirmation of grants for distribution of the estate.
- **Filing of Inventory:** *An application for confirmation must be accompanied by an inventory (a full account of the deceased's assets and liabilities) and a proposed distribution schedule.*
 - **Beneficiary Interests:** *The court will not confirm a grant if the administrator has failed to protect the interests of the rightful beneficiaries or has acted fraudulently.*
 - **Prior Right to Administer:** *The court considers the priority list of beneficiaries, typically starting with the surviving spouse or children*
 - **Capacity:** *The administrator must not be a minor of unsound mind*
 - **Consent:** *If a person with a prior right to administer does not apply, they must provide a letter of no objection, which is vital for the eventual confirmation process.*
 - **Six-month rule:** *Under section 71(1) of the Act, an application for confirmation must be made after the expiry of six months from the date the grant (probate or letters of administration) was issued.*
 - **Earlier confirmation:** *A court may grant permission to confirm a grant sooner than six months, but only in exceptional circumstances, such as when all beneficiaries are adults, consented to the proposal, and immediate distribution is necessary.*
 - **Duty to apply:** *It is the duty of the legal representative to apply for confirmation to enable the distribution of assets.*
6. In addition, **Rule 40 (1) of the Probate and Administration Rules** provides that, 'where the holder of a grant which has not been confirmed seeks confirmation he shall apply for such confirmation...' the rule is

simply interpreted to mean that the holder of a grant of representation is responsible for applying for the confirmation of grant.

7. Confirmation of grant, is the process whereby the Court approves the proposed distribution of the deceased's estate to the beneficiaries and thereby give the administrator the power to distribute the deceased's assets. **In Re Estate of Kiberenge Mukwa (Deceased) [2021] eKLR** the court stated that,

'Whereas a grant of representation appoints personal representatives or administrators, the certificate of confirmation does not do anything of that sort. All what it does is to confirm that the court has approved the persons appointed under the grant to continue to administer the estate, with a view to distribute it in accordance with the distribution schedule approved. A certificate of confirmation of grant is akin to that order or decree that is extracted from a ruling or judgement made by a court; it is an extract of the orders that the court makes on an application for confirmation of grant'.

8. The proposal for distribution is made by the estate's administrator through an application for confirmation of grant which lists all the beneficiaries of the estate and discloses their share of the Estate. Section 71(1) of Law of Succession Act and rule 40(1) of the Probate & Administration rules, provide that the application for confirmation is made 6 months after issuance of grant of representation or such shorter period as the court may direct. The exception to the 6 months' period for confirmation of grant is laid down in Section 71 (3) and Section 71(4) of LSA which states that, *'The court may direct for the grant to be confirmed before the expiry of the 6 months' period if the court is satisfied that:*
 - a. *There are no dependents of the deceased as defined by Section 29, or that the only dependents are of full age and consent to the application.*
 - b. *That it would be expedient in all circumstances of the case.*

An applicant when making his/her petition to court also applies for the immediate issue of a confirmed grant of representation, if it is satisfied that:

- a. There is no dependent as defined by Section 29, of the deceased other than the petitioner;*
 - b. No estate duty payable in respect of the estate. This is provided for by Section 7 of the Estate Duty Act which states that, 'Whenever any person dies, a tax known as estate duty shall be imposed and paid on all property on which the deceased (person) was at the time of his death competent to dispose'. It does not however apply to estates of those who died on or after 1st January, 1982 given that the Estate Duty (Abolition Act) abolished it in 1982.*
 - c. It is deemed to be just and equitable in all circumstances of the case to immediately issue a confirmed grant of representation.*
9. To this effect all the necessary disclosures in support of the summons of confirmation of grant have been filed by the applicant and the following beneficiaries:
- a. Gladys Muluki Kararaho-Daughter - ID No. 23308051
 - b. Jackline Sidi Fojdar-Daughter - ID No. 20555828
 - c. Mary Ruguru Kararaho-Daughter - ID No. 23281644
10. Ultimately therefore the summons of confirmation of grant initially issued to the applicant on 8th July 2025 be and is hereby confirmed in terms of section 71 of the Law of Succession Act as read with Rule 40& 41 of the Probate and administration Rules. As such the Deputy Registrar of the High court shall course the instrument to be prepared by the registry for endorsement by this court. It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET VIA CTS THIS 2ND DAY
OF APRIL 2026**

.....
R. NYAKUNDI
JUDGE