



REPUBLIC OF KENYA



**In re Estate of Luyera (Deceased) (Succession Cause 307 of 2009)
[2026] KEHC 4682 (KLR) (10 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4682 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
SUCCESSION CAUSE 307 OF 2009**

WM MUSYOKA, J

APRIL 10, 2026

IN THE MATTER OF THE ESTATE OF ELIZABETH ANYANGO BITA LUYERA (DECEASED)

RULING

1. On 16th February 2026, I delivered a ruling herein, where I postponed confirmation of the grant herein, to allow the administrators make provision for the family of the late Emmanuel Makokha Bitu, out of the portion meant for Elizabeth Anyango Bitu Luyera, for reasons that I gave in that ruling. I fixed the matter for mention, on 17th March 2026, when the parties were to report back, to confirm filing of an affidavit, complying with that direction.
2. The matter was mentioned on 17th March 2026, as ordered and scheduled. Wilfred Oundo, Magero Francis, Lucy Juma Makokha and Stephen Okumu Wafula attended court. There was no compliance with my directive of 16th February 2026. No affidavit had been filed. No allocation had been made to the family of the late Emmanuel Makokha Bitu. My directions had been ignored.
3. I shall take it that the parties were unable to agree on how to handle that. Where parties fail to agree on a mode of distribution, the court applies the law strictly. I shall apply section 38 of the [Law of Succession Act](#), Cap 160, Laws of Kenya, to share the portion due to Elizabeth Anyango Bitu Luyera, equally, between Wilfred Oundo Obara, Chrispinus Magero Obara, Francis Ojiambo Magero, Stephen Wafula Okumu and the estate of the late Emmanuel Makokha Bitu.
4. The final orders are:
 - (a). That Samia/Budongo/20 shall initially be shared equally between the estate of the late Elizabeth Anyango Bitu Luyera and Risper Auma Mbita;
 - (b). That, thereafter, the share due to the late Elizabeth Anyango Bitu Luyera shall be shared equally between Wilfred Oundo Obara, Chrispinus Magero Obara, Francis Ojiambo Magero, Stephen Wafula Okumu and the estate of the late Emmanuel Makokha Bitu;
 - (c). That the grant herein is confirmed in those terms, and a certificate of confirmation of the grant shall issue, accordingly;



- (d). That the administrators have 6 months, from the date of delivery of this ruling, to transmit the estate to the beneficiaries named above;
- (e). That the matter shall be mentioned on 14th October 2026, for confirmation of compliance with (d), above, and closure of this file;
- (f). That each party shall bear its own costs; and
- (g). That I hereby grant leave, to anyone who is aggrieved by these orders, to move to the Court of Appeal, and file an appropriate appeal.

5. It is so ordered.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT MILIMANI, NAIROBI,
ON THIS 10TH DAY OF APRIL 2026.**

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Messrs. Francis Ojiambo Magero, Wilfred Oundo Obara, Stephen Okumu Wafula, Chrispinus Oundo Obara and Risper Auma Bitu.

