

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MILIMANI**  
**FAMILY DIVISION**  
**PROBATE & ADMINISTRATION CAUSE NO. E509 OF 2020**

***IN THE MATTER OF THE ESTATE OF WAHITO WACHIRA (DECEASED)***

**LOIS WANGUI WACHIRA** .....**PROTESTOR**  
**VERSUS**  
**MARGARET WAMBUI WAHITO** .....**1<sup>ST</sup> RESPONDENT**  
**JANE WANJA MURIGI** .....**2<sup>ND</sup> RESPONDENT**

**RULING**

1. The dispute before this Court is a deeply protracted and legally complex succession contest concerning the estate of the Deceased, who was domiciled in Kenya, passed away intestate on April 24, 1991. She left behind an estate that has since become the subject of intense familial acrimony. The Deceased was survived by a large family comprising 8 children: 5 sons and 3 daughters. Tragically, the passage of time has seen the demise of 6 of those children, leaving only two surviving daughters, the Respondents, as the sole living direct descendants.
2. The primary asset forming the subject matter of this estate is a single parcel of land, formally described as Plot No. J53, Mathare Valley Joint Development Scheme, and also known as L.R. No. 209/7963/223 (hereinafter referred to as "the Suit Property"). The Suit Property currently hosts a twelve-room structure that generates substantial monthly rental

income, making it a highly contested economic resource for the competing branches of the family.

3. To fully appreciate the gravity and the adversarial nature of the current proceedings, it is imperative to examine the procedural history that preceded the filing of the present matter. More than two decades after the Deceased's passing, the Administrators initiated succession proceedings at the High Court in Murang'a, registered as Succession Cause No. 1127 of 2013. Through those proceedings, the Administrators obtained a Grant of Letters of Administration Intestate on March 11, 2014, and a subsequent Certificate of Confirmation of Grant on December 5, 2014. Upon obtaining the confirmed Grant, the Administrators immediately transferred the Suit Property into their own names and subsequently sold it to a third-party purchaser, one Godana Dida.
4. These actions prompted the Protestor, who asserts that she is the widow of the Deceased's eldest son, John Wachira Ndirangu, to file an application for the revocation of the Grant in the Murang'a High Court. The Protestor alleged that the Grant was procured through fraud and the deliberate concealment of material facts, specifically the existence of other rightful dependants and grandchildren of the Deceased. In a comprehensive and well-reasoned judgment delivered on June 22, 2020, the Hon. Justice Kanyi Kimondo revoked the Grant. The learned Judge observed that the filing of the cause in Murang'a—a county where the Deceased neither resided nor held assets—was a calculated stratagem designed to conceal the succession process from the broader family. The Court found that the Administrators had intentionally failed to disclose the full list of dependants, including the son of their deceased brother, Fredrick Kago. Consequently, the Court nullified the purported transfer to Godana Dida, ordered the Suit Property to revert to the name of the Deceased, and directed the

Administrators to apply for a fresh Grant at the High Court in Nairobi, ensuring the inclusion of all dependants and assets.

5. Pursuant to the directives of the Murang'a High Court, the Administrators filed the present succession cause. A fresh Grant of Letters of Administration Intestate was issued to them on February 18, 2021. The matter is now before this Court for final determination following the filing of a Summons for Confirmation of Grant by the Administrators, which has met fierce resistance from the Protestor by way of an Affidavit of Protest.

### **Summons for Confirmation of Grant**

6. The Administrators filed a Summons for Confirmation of Grant dated October 15, 2024, brought pursuant to Section 71(1) of the Law of Succession Act and Rule 40 of the Probate and Administration Rules. In their supporting joint Affidavit, the Administrators aver that they have diligently identified, ascertained, and determined the shares of all persons beneficially entitled to the estate. They formally acknowledge that the Deceased was survived by 8 children, 6 of whom are now deceased.
7. The Administrators submit that the estate is encumbered by liabilities incurred during the course of administration. Specifically, they claim to have taken a development loan of Kshs 420,000/= from Letshego Kenya Limited to renovate the dilapidated structures on the Suit Property, and they report having paid land rates to the Nairobi City County Government amounting to Kshs 39,950/=. To settle these liabilities and distribute the net estate, the Administrators pray for an order to sell the Suit Property in the open market.
8. The Administrators propose a mode of distribution that disproportionately favours themselves over the estates of their deceased siblings. The proposed schedule of distribution for the proceeds of the sale designates

that each Administrator/Respondent will receive 20% of the net estate while the estates of their deceased brothers will receive 10% each.

9. The Administrators contend that this distribution is fair and equitable under the circumstances, given their direct involvement in the preservation and enhancement of the asset. Furthermore, in response to the protest, the Administrators filed further affidavits challenging the *locus standi* of the Protestor. They assert that the Protestor is a stranger to the family, was never married to their late brother John Wachira Ndirangu, and lacks the legal capacity to represent the deceased brothers' estates. They deny that the Deceased ever made an oral gift of the Suit Property to the sons and maintain that the Protestor's actions are driven by malice and a desire to unjustly disinherit the true beneficiaries.

#### **The Affidavit in Protest**

10. The Protestor filed an Affidavit of Protest dated November 6, 2024, mounting a vigorous challenge to the Administrators' proposals. She asserts her standing as the lawful widow of John Wachira Ndirangu, the Deceased's second-born child and eldest son, who passed away on July 31, 2010. The Protestor avers that she represents not only the estate of her late husband but also the broader interests of the wives and children (the grandchildren of the Deceased) of all the deceased sons.
11. The crux of the Protestor's case is the allegation that the Suit Property does not form part of the free intestate estate available for distribution. According to the Protestor, the Deceased, during her lifetime, made a definitive and irrevocable oral gift of the Suit Property exclusively to her 5 sons, to be held jointly by them. She contends that the Deceased had already provided for her daughters by gifting them other parcels of land, which the daughters subsequently sold. The Protestor alleges that the oral gift to the sons was practically implemented and recognized by the family, evidenced by the fact

that one of the sons, Fredrick Kago Ndirangu, lived on, managed, and collected rental income from the Suit Property until his death in April 2013. The rental income, she claims, was utilized for the collective upkeep and education of the children of the five sons.

12. The Protestor accuses the Administrators of opportunistic behaviour, alleging that they only developed an interest in the Suit Property and initiated the clandestine Murang'a succession proceedings after the death of the last surviving brother in 2013. She opposes the proposed sale of the Suit Property and the unequal distribution schedule, arguing that the property belongs to the sons' dependents and must be preserved for their benefit. Finally, the Protestor demands a rigorous accounting of the rental income collected by the Administrators since 2013, estimating that the property yields Kshs 40,500/= per month, resulting in unaccounted collections exceeding Kshs 5,600,000/=.

### **The Evidence**

13. Given the stark contradictions in the affidavit evidence regarding the Protestor's marital status, the existence of an oral gift, and the management of the estate, the Court directed that the matter proceed to an *inter partes* hearing via *viva voce* evidence.
14. Lois Wangui Wachira took the stand as PW1, testifying in Kiswahili. She maintained a steadfast narrative regarding her relationship with the Deceased and her late husband, John Wachira. PW1 testified that the Deceased resided with her in her matrimonial home in Kariobangi South—a house provided by her husband's employer—when the Deceased fell grievously ill. She recounted a specific event prior to the Deceased's demise, where the Deceased summoned John Wachira and, in the presence of PW1, orally declared that the Suit Property in Huruma was to devolve exclusively

to her five sons, led by John. PW1 testified that the Deceased, being illiterate, did not reduce this declaration to writing.

15. PW1 explained that this disposition was accepted by the family and that Fredrick Kago assumed the role of caretaker of the plot until his death. It was only upon Fredrick's death that the Administrators allegedly orchestrated a takeover, prompting PW1 to seek intervention from the local chief and the District Officer to halt the initial sale to Godana Dida.
16. During cross-examination by Counsel for the Administrators, PW1 faced intense scrutiny regarding her marital status. She admitted that she married John Wachira under Kikuyu customary law in 1968 and that no formal marriage certificate was ever issued. She further conceded that the Administrators were not present at the customary wedding ceremony in Nyeri, explaining that customary practices generally exclude unmarried girls from attending such rites. When challenged on the lack of documentary evidence for the oral gift, PW1 reiterated that the Deceased's illiteracy precluded any written deed. She insisted that the proceeds of the property should be shared among the widows and children of the deceased sons, to the complete exclusion of the Administrators, whom she accused of attempting to steal the property.
17. Margaret Wamuyu Wahito testified as DW1, adopting her Further Affidavit. DW1 offered a narrative that diametrically opposed the Protestor's account. She asserted that the Protestor was a complete stranger to the family. DW1 testified that her brother, John Wachira, never introduced the Protestor as his wife, nor did the family ever attend any customary marriage ceremony or dowry negotiation (*Ruracio*). According to DW1, John lived and died alone in Jericho Estate, and the daughters were the sole caregivers for both their mother and their brother during their respective final illnesses.

18. On the issue of the Suit Property, DW1 categorically denied the existence of any oral gift favouring the sons. She testified that none of her brothers had children, stating that they would frequently marry and separate, and that she had never seen any children at their funerals. DW1 sought to justify the filing of the succession cause in Murang'a by claiming ignorance of the law and the urgent need to secure a loan. She testified that the property was burdened with debts and that she had taken a loan to renovate the dilapidated structures, which justified their initial attempt to sell the property to Godana Dida before the Murang'a Court intervened. Under cross-examination, DW1 admitted that it is widely known that filing the case in the wrong jurisdiction and proceeding to sell the property without a proper confirmed Grant was illegal, though she maintained they acted without legal advice.
19. Jane Wanja Wahito testified as DW2, closely corroborating the testimony of her sister. DW2 reiterated that she did not know the Protestor and had never attended any marriage ceremony. She testified that she lived with her mother in Jericho and that only John Wachira, among the sons, assisted with their mother's care. She emphatically denied that the Deceased had bequeathed the Suit Property exclusively to the sons.
20. During cross-examination and upon questioning by the Court, DW2 admitted to signing the confirmation documents in the Murang'a proceedings and participating in the abortive sale to Godana Dida. Crucially, DW2 provided transparency regarding the current status of the Suit Property. She informed the Court that the property comprises twelve rental rooms and that the title has reverted to the Administrators' names since July 2024, pursuant to the Murang'a Court order. DW2 testified to collecting varying amounts of rent—Kshs 33,000/= in July 2025, Kshs 34,000/= in August, Kshs 29,000/= in September, and Kshs 19,500 in May—and stated that these funds were currently being remitted to their Advocate.

21. Following the conclusion of the evidentiary hearing, the Court directed the parties to file written submissions, which have been carefully considered in the determination of this matter.

### **Submissions by the Protestor**

22. The Protestor submitted that she possesses the requisite *locus standi* to maintain the suit as the widow of a deceased beneficiary. It was argued that the Protestor satisfied the requirements of a Kikuyu customary marriage through the performance of *Ruracio* and *Ngurario*, citing Dr. Eugene Contran's *Restatement of African Law*. In the alternative, Counsel relied heavily on the doctrine of presumption of marriage, citing the Supreme Court authoritative decision in ***MNK v POM; Initiative for Strategic Litigation in Africa (ISLA) (Amicus Curiae) (Petition 9 of 2021) KESC 2 (KLR)***. Counsel argued that the prolonged cohabitation from 1968 to 2010, coupled with the general repute of the couple, comfortably discharged the evidentiary burden.
23. On the substantive dispute, Counsel submitted that the Deceased made an effective lifetime disposition (a gift) of the Suit Property to her sons, operationalized by Fredrick Kago's long-term management of the asset. Counsel contended that the Administrators' subsequent payment of rates or undertaking of developments did not automatically vest ownership in them or extinguish the beneficial interests of the grandchildren.
24. Regarding the proposed distribution, it was argued that the Administrators' plan is manifestly unjust and contravenes the Law of Succession Act. Relying on ***In Re Estate of Wahome Njoki Wakagoto (2013) eKLR*** and Section 39 of the Act, Counsel submitted that the grandchildren are entitled to step directly into the shoes of their deceased fathers. Furthermore, Counsel cited Section 38 of the Act and the precedent of ***In re Estate of***

**John Muusambayi Katumanga (Deceased) KEHC 7506 (KLR)** to argue that the law mandates strict equal distribution among surviving children, rendering the Administrators' proposal of 20% for themselves and 10% for the deceased sons' estates unlawful.

### **Submissions by the Administrators**

25. The Respondents raised a fundamental preliminary objection regarding the Protestor's *locus standi*. Citing the decisions in **Wambugu v Karuna & 2 Others KEBPRT 249 (KLR)** and **Julian Adoyo Ongunga & another v Francis Kiberenge Bondeva KEHC 4186 (KLR)**, the Respondents submitted that a party lacking *locus standi* has no legal right to be heard, regardless of the merits of their underlying claim. They argued that the Protestor failed to produce a Marriage Certificate, documentary evidence of the customary rites, or the birth certificates of the grandchildren she purported to represent.
26. Addressing the alleged oral gift, Counsel submitted that the Protestor failed to satisfy the rigorous legal standards required for the transfer of real property. Relying on **In re Estate of the Late Gedion Manthi Nzioka (Deceased) KEHC 944 (KLR)** and **In re Estate of Godana Songoro Guyo (Deceased) KEHC 3970 (KLR)**, Counsel argued that an oral promise to gift land is legally void without a registered transfer, a deed, or a written declaration of trust. Counsel emphasized that a gift *inter vivos* must be complete and absolute, and equity will not perfect an imperfect gift.
27. Consequently, Counsel urged the Court to dismiss the Protestor's affidavit in its entirety, confirm the Grant, and approve the Administrators' proposed distribution schedule, arguing that it reflects the true familial dynamics and

reasonably compensates the Administrators for their efforts in preserving and developing the estate.

### **Analysis & Determination**

28. Having exhaustively reviewed the pleadings, the *viva voce* testimonies, the documentary exhibits, the historical context of the Murang'a litigation, and the erudite submissions of Counsel, this Court isolates the following four cardinal issues for determination:

- (i) Whether the Protestor possesses the requisite *locus standi* to institute and maintain the present protest as a widow and dependent.
- (ii) Whether the Deceased made a valid, legally enforceable gift *inter vivos* or *donatio mortis causa* of the Suit Property exclusively to her five sons during her lifetime.
- (iii) Whether the proposed mode of distribution in the Summons for Confirmation is fair, equitable, and in conformity with the mandatory provisions of the Law of Succession Act and the Constitution of Kenya.
- (iv) Whether the Administrators are liable to render a comprehensive account of the rental income, and what the appropriate final orders regarding the realization and distribution of the Suit Property should be.

### **The Jurisprudence on *Locus Standi* and the Presumption of Marriage**

29. The concept of *locus standi* is the jurisdictional gateway through which a litigant must pass to seek audience before a court of law. As was authoritatively stated in ***Law Society of Kenya v Commissioner of Lands & 2 others [2001] KEHC 831 (KLR)***, *locus standi* signifies the legal right to be heard,

requiring a person to demonstrate a sufficiency of interest to sustain standing. A party bereft of *locus standi* is akin to a stranger meddling in the affairs of others, and any proceedings instituted by such a party are rendered a nullity *ab initio*, a principle reinforced by Justice Mrima in ***Julian Adoyo Ongunga v Francis Kiberenge Bondeva [2016] eKLR***.

30. In the context of probate and administration, Section 76 of Act and Rule 40 of the Probate and Administration Rules empower any interested party to apply for the revocation of a Grant or to object to its confirmation. The jurisprudence of this Court is well-settled that a daughter-in-law has sufficient *locus standi* to participate in the succession of a parent-in-law's estate if she is the widow of a deceased child of the intestate. In such circumstances, the widow steps into the shoes of her deceased husband to protect the proprietary interests that would have devolved upon him, thereby safeguarding the inheritance of the intestate's grandchildren (Section 39 and 41 of the Act). The threshold question is whether the Protestor has established, to the required standard of proof, that she is the lawful widow of John Wachira Ndirangu.
31. The Protestor advanced two alternative theories of marriage: a Kikuyu customary marriage and a marriage by presumption. Regarding the former, the Court is guided by the foundational text of Dr. Eugene Contran's *Restatement of African Law* and the judicial exposition in cases such as ***Grace Wanjiku Kimani & 2 others v Peter Kimanga Kimani & another KEHC 1026 (KLR)*** and ***Mary Wanjiru Githatu v Esther Wanjiru Kiarie [2016] eKLR***. For a Kikuyu customary marriage to be valid, specific essential ingredients must be met, namely capacity, consent of the families, payment of dowry (*Ruracio*), and the ceremonial slaughtering of a ram (*Ngurario*). The onus of proving a customary marriage rests squarely on the party asserting it, and the standard of proof is the balance of probabilities. In this case, the Protestor's evidence regarding the customary marriage was largely

uncorroborated. While she testified that a ceremony took place in Nyeri in 1968, she failed to produce independent witnesses to the ceremony, details of the dowry paid, or any documentary evidence of the rites performed. Consequently, the strict evidentiary threshold for proving a formal Kikuyu customary marriage has not been satisfied.

32. However, the failure to prove the strict formalities of a customary marriage is not necessarily fatal to a claim of spousal status, as the law recognizes the doctrine of presumption of marriage by long cohabitation and general repute. This doctrine, rooted in common law, is designed to protect parties in long-term, family-forming unions where formal ceremonies may have been incomplete or undocumented. The parameters of this doctrine were recently crystallized by the Supreme Court in ***Mary Nyambura Kangara v Paul Ogari Mayaka (MNK v POM) (Petition 9 of 2021) KESC 2 (KLR)***.
33. In ***MNK v POM***, the Supreme Court cautioned that the presumption of marriage is the exception rather than the rule, and laid down strict criteria that must be satisfied: (a) Parties must have cohabited for a long duration; (b) Parties must have had the legal capacity to marry; (c) Parties must have intended to marry; (d) There must have been mutual consent to the marriage; (e) Parties must have held themselves out publicly as married; (f) The burden of proving the presumption lay on the party alleging it; (g) Evidence rebutting the presumption had to be strong, distinct, satisfactory, and conclusive; and (h) The standard of proof was on a balance of probabilities.
34. Applying these stringent parameters to the facts at hand, the Court finds that whereas the Protestor and the late John Wachira may have cohabited as alleged by the Protestor, the presumption of marriage was not been proved to the requisite standard. Other than her own testimony, the Protestor did not call any evidence to demonstrate that parties had held themselves out as

married. Further, it is noteworthy that in the proceedings herein as well as those before the High Court at Murang'a, the Protestor failed to produce any evidence of children born to John Wachira and herself.

35. On the other hand, the Administrators/Respondents' attempt to rebut this presumption consisted of mere blanket denials, asserting that their brother lived and died alone, at the age of 60 years, whilst residing in Jericho Estate and that they never attended a marriage ceremony. Incredibly, the Respondents further claimed that all five sons of the Deceased passed away, leaving no wives nor children. The Court finds this hard to believe. Furthermore, in their proposed mode of distribution, the Respondents propose that each of the estates of their deceased brothers should receive 10% of the net estate. It is curious why they would propose allocations to estates that have no dependents.
36. Therefore, drawing upon the principles in ***MNK v POM*** and ***Mary Njoki v John Kinyanjui Muthuru***, and based on the evidence presented by both sides, this Court finds that the Protestor has not proved her marriage to John Wachira Ndirangu, whether by presumption or customary marriage, to the required standard.
37. Consequently, the Protestors lacks the requisite *locus standi* as an interested party to protest the confirmation of the grant and to advocate for the rights of John Wachira Ndirangu's estate and his children, if any. The Administrators' preliminary objection on standing is hereby upheld.

#### Constitutional and Statutory Imperatives on Equal Distribution

38. Notwithstanding Protestor's standing, the Court must critically evaluate the Administrators/Respondents' proposed distribution schedule in order to protect the interests of any dependents/beneficiaries of the estates of the

deceased brothers. The Respondents propose retaining a 20% share for each of the two surviving daughters and allocating a 10% share to the estates of each of the six deceased children. This proposal is legally untenable, inherently discriminatory, and offends the core tenets of both the Law of Succession Act and the Constitution.

39. The distribution of an intestate estate where the deceased is survived by children but no spouse is governed by Section 38 of the Act, which states unequivocally:

*Where an intestate has left a surviving child or children but no spouse, the net intestate estate shall, subject to the provisions of sections 41 and 42, devolve upon the surviving child, if there be only one, or shall be equally divided among the surviving children.*

40. The operative word in Section 38 is "equally". The legislative intent behind Part V of the Act is absolute numerical equality among the children of the deceased. The law does not permit equitable or subjective apportionment based on an administrator's personal assessment of a beneficiary's financial status, age, or whether the beneficiary is currently alive or deceased.
41. The Administrators' attempt to halve the shares of their deceased siblings is particularly egregious when viewed through the lens of Section 41 of the Act. Section 41, read in conjunction with the doctrines of representation, protects the inheritance rights of grandchildren. Where a child of the intestate dies before the distribution of the estate, the property that would have devolved upon that child is held in trust for their issue. The Court in ***In Re Estate of Wahome Njoki Wakagoto (2013) eKLR*** firmly established that while grandchildren do not inherit directly from grandparents if their own parents

are alive, they possess an absolute right to step directly into the shoes of their deceased parents and take the exact share that would have accrued to that parent. Therefore, the estates of John, Fredrick, David, Joseph, Jimmy, and Mary are entitled to the exact same proportion of the estate as the living Administrators, Margaret and Jane.

42. Consequently, the Court strikes down the Administrators' proposed distribution schedule. The law demands mathematical parity. The eight children of the Deceased—or their respective estates through their legal representatives—are each legally entitled to a precise, equal, and absolute one-eighth (1/8th or 12.5%) share of the net intestate estate.

#### Fiduciary Duties, Accounting, and Final Disposition

43. The evidence before this Court establishes that the Suit Property comprises twelve rental rooms. The Administrators admitted under oath to collecting rental income varying from Kshs 19,500/= to Kshs 35,000/= per month. They testified that these funds were utilized to service a commercial loan of Kshs 420,000/= taken for renovations, to pay land rates of Kshs 39,950/=: to cover the 2<sup>nd</sup> Respondent's personal medical expenses, and currently, to remit funds to their advocate.
44. Section 83 of the Act imposes a stringent, non-derogable fiduciary duty upon personal representatives. Administrators hold the estate property and its accrued income in trust for all beneficiaries. The income generated by the Suit Property does not belong to the Administrators/Respondents personally. While it is recognized that the Administrators incurred legitimate expenses in paying land rates and renovating the property to enhance its rental yield, they possess no legal authority to unilaterally apply estate income toward personal medical expenses or to divert funds without rendering a proper, documented account to the other beneficiaries.

45. The Court takes judicial notice of the troubled history of this estate, specifically the Murang'a proceedings where the Administrators/Respondents illicitly transferred the property to a third party, Godana Dida, prior to the proper ascertainment of beneficiaries. While the Respondents pleaded ignorance of the law during cross-examination, their actions display a concerning propensity to treat the estate as their exclusive private property. Therefore, an order for a comprehensive, independent accounting of all rental income collected since the Respondents assumed control is necessary and justified.
46. Regarding the final disposition of the Suit Property, the Respondents pray for an order of sale. The property is a single plot situated in Mathare Valley. Dividing such a property physically into eight distinct and equal portions is practically unfeasible and would destroy the economic utility of the asset.
47. Under Section 82 of the Act, personal representatives hold the statutory power to sell estate property to facilitate distribution, provided such sale is conducted equitably, transparently, and in the best interests of the estate. Given the impossibility of physical subdivision, the realization of the property's value through a sale—or a buyout by interested beneficiaries—is the only viable mechanism to ensure that each of the eight branches of the family receives their rightful 12.5% share. However, given the history of clandestine transactions, the sale must be strictly supervised by the Court, preceded by an independent professional valuation, to protect the vulnerable beneficiaries from further disenfranchisement.
48. The administration of this estate has been characterized by opacity, unauthorized dispositions, and attempts by various factions of the family to exclude one another based on outdated customary notions or sheer self-interest. This Court reiterates that the Law of Succession Act, read through

the prism of the Constitution, serves as a great equalizer. It mandates fairness, absolute transparency, and rigid adherence to the principle of equal distribution among all surviving children, while robustly preserving the rights of the issue of deceased children.

49. For the reasons exhaustively articulated above, the Court issues the following orders:

- (i) The preliminary objection challenging the standing of the Protestor is hereby upheld.
- (ii) The mode of distribution proposed by the Administrators in the Summons for Confirmation of Grant dated October 15, 2024, is rejected as discriminatory, unequal, and unlawful under Section 38 of the Law of Succession Act and Article 27 of the Constitution.
- (iii) The Grant of Letters of Administration Intestate issued on February 18, 2021, is hereby confirmed, subject to the strict adherence to the following mode of distribution. The net intestate estate (comprising the Suit Property and all accrued net rental income) shall be distributed equally in the following shares:

| Name of Estate/Beneficiary        | Relationship      | Share       |
|-----------------------------------|-------------------|-------------|
| Jane Wanja Murigi                 | Daughter          | 1/8 (12.5%) |
| Margaret Wamuyu Wahito            | Daughter          | 1/8 (12.5%) |
| Estate of John Wachira Ndirangu   | Deceased Son      | 1/8 (12.5%) |
| Estate of Mary Wanjiru Ndirangu   | Deceased daughter | 1/8 (12.5%) |
| Estate of Fredrick Kago Ndirangu  | Deceased Son      | 1/8 (12.5%) |
| Estate of David Kbaue Ndirangu    | Deceased Son      | 1/8 (12.5%) |
| Estate of Joseph Gacheru Ndirangu | Deceased Son      | 1/8 (12.5%) |

|                                   |              |             |
|-----------------------------------|--------------|-------------|
| Estate of Jimmy Ngunjiri Ndirangu | Deceased Son | 1/8 (12.5%) |
|-----------------------------------|--------------|-------------|

- (iv) The Administrators/Respondents are hereby ordered to file and serve a comprehensive, documented, and audited account of all rental income collected from the Suit Property from the date they assumed management to the present date. This account must clearly detail the gross income generated, the Kshs 420,000/- loan obtained from Letshego Kenya Limited, the Kshs 39,950/- land rates paid, and any other legitimate administrative expenses. Personal expenses, including the medical bills of the 2<sup>nd</sup> Respondent, shall not be charged against the general estate and must be offset against her specific 1/8<sup>th</sup> share. This accounting shall be filed within forty-five (45) days of this Ruling.
- (v) The Administrators/Respondents appoint a registered valuer to conduct a comprehensive valuation of Plot No. J53, Mathare Valley Joint Development Scheme, within thirty (30) days of this Ruling. The cost of the valuation shall be borne by the estate. Upon valuation, any dependent of the respective beneficiary estates desiring to retain the property shall be granted the right of first refusal to buy out the shares of the other beneficiaries at the ascertained market value.
- (vi) Should no dependent of the respective beneficiary estates exercise the buyout option within sixty (60) days of the issuance of the valuation report, the Suit Property shall be sold in the open market at a price not lower than the reserved forced-sale value. The proceeds of the sale, together with the net reconciled rental income, shall be deposited in court and subsequently distributed equally in the 1/8<sup>th</sup> proportions tabulated above.
- (vii) Each party shall bear their own costs of these proceedings.

(viii) Any aggrieved party is granted leave to appeal.

**DATED AND DELIVERED AT NAIROBI THIS 14 DAY OF MAY 2026**

**HELENE R. NAMISI  
JUDGE OF THE HIGH COURT**

Delivered on virtual platform in the presence of:

Court Assistant: Lucy Mwangi

Ruling