

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**SUCCESSION CAUSE NO. 723 OF 2012**

**IN THE MATTER OF THE ESTATE OF SAMSON M'RINGERA  
KIRANGU (DECEASED)  
CHARITY** **NKIROTE**

**M'RINGERA.....PETITIONER/RESPONDENT**

**VERSUS**

**AGNES KANANU MUTETHIA.....1<sup>ST</sup>**

**APPLICANT**

**SAMWEL MBURUGU KABUTI.....2<sup>ND</sup>**

**APPLICANT**

**RULING**

1. For determination is the summons for confirmation of the grant dated 28/7/2024 under **Sections 26, 27, 28 and 47 of the Law of Succession Act**, seeking that:

**1. This honourable Court be pleased to grant an order to have L.R NYAKI/KITHOKA-MWANIKA/392 distributed to AGNES KANANU MUTETHIA a daughter of the deceased who was left out in the initial distribution of her father's estate.**

**2. This honourable Court be pleased to issue an order directed at the Petitioner/Administratrix to execute the conveyance instruments in execution of prayer 1 above and in default the**

**3. Deputy Registrar be empowered by an order of this honourable court to execute the same.**

**4. This honourable court be pleased to grant any further orders in light of this honourable court ruling and orders of 6/4/23.**

**5. Costs of this application be provided for.**

2. The application is supported by the grounds that the 1<sup>st</sup> Applicant, a daughter of the deceased was wrongly and illegally left out during the initial distribution. In its ruling dated 6/4/2023, the court confirmed that the 1<sup>st</sup> Applicant was indeed left out and reserved L.R No. Nyaki/Kithoka-Mwanika/392 **(hereinafter referred to as the suit property)**, which is available to be distributed to her.

3. The Respondent swore a replying affidavit on 23/1/2024 in opposition to the application. She denied disinheritance of any of her daughters and averred that she should have a life interest over the suit property and upon her demise, the land to be inherited by her daughters, namely Janet Karimi, Lucy Karea, Fridah Kinya, Agnes Kananu and Violet Kendi. In the

alternative, the land ought to be registered jointly in her name and those of her daughters.

4. The 1<sup>st</sup> Applicant swore a Supplementary Affidavit on 12/2/2024 in support of the application.

5. The application was heard orally when **AW1 Agnes Kananu Mutethia**, the 1<sup>st</sup> Applicant herein, testified. She adopted her supporting and Supplementary Affidavits as her evidence in chief. She told the Court that she was neither involved in these proceedings nor given any share of the estate despite being a daughter of the deceased, yet her unmarried sisters and the Respondent got portions thereof.

6. **RW1 Charity Nkirote M'Ringera**, the Respondent herein, adopted her replying affidavit as her evidence in chief. She acknowledged that the 1<sup>st</sup> Applicant was indeed her daughter who was married at Kiereu. She lived on and utilized the suit property, with the consent of her children inclusive of the 1<sup>st</sup> Applicant. She gave her other children portions of the estate while advising the 1<sup>st</sup> Applicant to wait to inherit from her after her demise.

7. The application was canvassed by way of written submissions, which were filed by Counsel.

### **Analysis and Determination**

8. The issue for determination is how the suit property ought to be distributed.

9. It is undisputed that the 1<sup>st</sup> Applicant is a daughter of the deceased herein, who did not get a share of her deceased father's estate. The justification advanced by the Respondent for the said omission is the 1<sup>st</sup> Applicant's marital status.

**Article 27 of the Constitution** out rightly frowns upon any form of discrimination on the basis of gender or marital status. Comparatively, **Section 29 (a) of the Law of Succession Act**, in recognizing children, does not classify them on the basis of gender or marital status.

10. The Respondent conceded in her testimony that the 1<sup>st</sup> Applicant was entitled to a share of the suit property when she stated that, ***“She should come and get part of parcel that remains. I know others who had been left out said they had no issue with distribution and were okay.”***

11. The 1<sup>st</sup> Applicant has expressed her willingness to getting  $\frac{3}{4}$  of the suit property while the Respondent retains  $\frac{1}{4}$  thereof.

12. The upshot from the foregoing analysis is that the application dated 28/7/2023 is merited and it is allowed in the following terms:

- 1. L.R No. NYAKI/KITHOKA-MWANIKA/392 measuring 1.063 Acres shall be shared as follows:**
  - i. 0.797 acres to the 1<sup>st</sup> Applicant**
  - ii. 0.266 acres to the Respondent.**

**2. The Petitioner/Administratrix to execute the conveyance instruments to realize prayer 1 above, and in default the Deputy Registrar is empowered to do so.**

**DATED AND DELIVERED AT MERU THIS 12<sup>TH</sup> DAY OF MAY, 2026.**

**S.M. GITHINJI - JUDGE**

**12/5/2026**

**In the presence of:-**

Mr. Mwendwa for the Administrator/Respondent.

Mr. Anampiu for the Applicant.

Mention on 13/10/2026.