



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**In re Estate of John Oduor Akwera (Deceased) (Succession Cause 64 of 2008) [2025] KEHC 350 (KLR) (24 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 350 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
SUCCESSION CAUSE 64 OF 2008**

**WM MUSYOKA, J**

**JANUARY 24, 2025**

**IN THE MATTER OF THE ESTATE OF JOHN ODUOR AKWERA (DECEASED)**

**RULING**

1. On 4<sup>th</sup> October 2024, I delivered a ruling, wherein I postponed determination of the summons for confirmation of grant, dated 25<sup>th</sup> May 2023, to enable the administrators comply with directions that I gave in that ruling, with respect to disclosure of the daughters of the deceased, if there were any.
2. The directions given in that ruling were to the effect that:

“... I hereby direct that affidavits be filed, within 30 days, disclosing the names of any such daughters, with each being placed in their respective houses. Where any daughter is deceased, but had children of her own, the said offspring should be disclosed by name. To ease and facilitate distribution, let the said daughters or the children of any of the dead daughters of the deceased file affidavits, indicating whether or not they renounce their rights.”
3. Those directions required 3 actions:
  - a. Disclosure of the names of the 6 daughters of the deceased.
  - b. Disclosure of any offspring of any daughter or daughters of the deceased who are deceased, being grandchildren of the deceased; and
  - c. Renunciation by any of the daughters who do not wish to benefit from or participate in the distribution of the estate of the deceased.
4. Several affidavits have been filed, sworn by Alfred Makhulo, on some undisclosed date in 2024; Grace Akwera Ndemo, Christine Nangira Oduori, Julia Nekesa Oduori, Monica Adhiambo, Faustine Oduori and Angelica Oduori, on an unknown date; Kizito Omondi Oduori, on 25<sup>th</sup> November 2024; Everlyne Anyango Oduor and Emily Akumu Oduor, on 25<sup>th</sup> November 2024; Carolyn Auma Oduor on 9<sup>th</sup> December 2024; and Consolata Aloo Oduor on 9<sup>th</sup> December 2024.



5. The affidavit by Alfred Makhulo indicates that the deceased had 4 wives and discloses the daughters of each of those 4 wives. The wives were Anastasia Atsieno Oduori, Anna Nabwire Oduori, Zainabu Shumira Oduori and Christine Amiru. The first house of Anastasia Atsieno Oduori, has 4 daughters, namely Consolata Aloo Oduori, Everlyne Ong'ayi Oduori, Emily Nokodai Oduori and Caroline Saja Oduori. The second wife, Anna Nabwire Oduori, had 7 daughters, being Grace Akwera Ndemo, Christine Nangira Oduori, the late Mildred Friday Oduori, Julia Nekesa Oduori, Sr. Monica Oduori, Faustine Oduori and Angelica Oduori. The children of the late Mildred Friday Oduori, being grandchildren of the deceased, are disclosed, as David Wabuke, Malachi Pamba, Eli Wandera Pamba and Juma Pamba. The third wife, Zainabu Shumira Oduori, did not have a daughter with the deceased. The fourth wife, Christine Amiru, had 1 daughter, known as Mary Isabella Akwera Oduori.
6. In the joint affidavit sworn by Grace Akewra Ndemo, Christine Nangira Oduori, Julia Nekesa Oduori, Monica Adhiambo, Faustine Oduori and Angelica Oduori, it is disclosed that all these daughters are aware of the succession proceedings, have been involved in them, and they indicate that they have voluntarily relinquished any claim in the estate of their late father.
7. In his affidavit, Kizito Omondi Oduori adopts a slightly different approach from that by Alfred Makhulo. He discloses all the children of the deceased by his 4 wives, Anastacia Atsieno Oduori, Anne Nabwire Oduor, Zainabu Shumira Oduori and Christine Amiru Oduori. The first house of Anastacia Atsieno Oduori, has 6 children, being 2 sons and 4 daughters, namely Lambert Oundo Oduori, Kizito Omondi, Consolata Aloo Oduor, Everlyne Anyango Oduor, Emily Akumu Oduor and Carolyne Auma Oduor. The second wife, Anne Nabwire Oduor, had 8, being 3 sons and 5 daughters, namely Makhulo Alfred, Charles Oduori, Ambrose Oduori, Grace Akwera, Christine Nangira, Mildred Oduor, Julia Nekesa and Monica Oduori. The third wife, Zainabu Shumira Oduori, had 1 child with the deceased, a son, Self Martin Oduori. The fourth wife, Christine Amiru Oduori, had 3 children, being 2 sons and 1 daughter, namely, Dennis Oduori, Danstone Kwena and Mary Isabella Akwera Oduori.
8. Everlyne Anyango Oduor, Emily Akumu Oduor, Carolyne Auma Oduor and Consolata Aloo Oduor have, in their respective affidavits, renounced their entitlements to inherit from the estate of the deceased.
9. Kizito Omondi Oduori, Everlyne Anyango Oduor, Emily Akumu Oduor, Carolyne Auma Oduor and Consolata Aloo Oduor go on, in their affidavits, to address issues that were not directed on. They state that the deceased had already distributed his property, and they go on to state how that was done.
10. Several things emerge from these affidavits:
  - a. that the deceased had 12 daughters, according to Alfred Makhulo, and 10 daughters according to Kizito Omondi Oduori;
  - b. that 1 of the daughters of the deceased is dead, and was survived by 4 children;
  - c. that there is no consensus on the number of daughters in the 2<sup>nd</sup> house, for Alfred Makhulo says there are 7, while Kizito Omondi Oduori says they are 5, and leaves out the names of Faustine Oduori and Angelica Oduori;
  - d. that 10 of the daughters, out of the 12 according to Alfred Makhulo, and the 10 according to Kizito Omondi Oduori, have renounced their entitlement to a share in the estate, being Grace Akwera Ndemo, Christine Nangira Oduori, Julia Nekesa Oduori, Monica Adhiambo, Faustine Oduori, Angelica Oduori, Everlyne Anyango Oduor, Emily Akumu Oduor, Carolyne Auma Oduor and Consolata Aloo Oduor;



- e. that those not renouncing are Mary Isabella Akwera Oduori and the survivors of the late Mildred Friday Oduori; and
  - f. that different middle names are given by both sides for the daughters from the 1<sup>st</sup> house.
11. I shall proceed to determine the matter based on the evidence on record, the disclosure of the daughters and the renunciations in these latter affidavits.
  12. According to the affidavits that I have reviewed above, the deceased died a polygamist, having married 4 times. Each of the 4 wives had the children disclosed, both sons and daughters. I have noted the renunciations by 10 of the daughters. The renunciations by Faustine Oduori and Angelica Oduori would mean that their non-recognition by Kizito Omondi Oduori would be of no consequence. I have noted that Mary Isabella Akwera Oduori and the survivors of the late Mildred Friday Oduori have not renounced their entitlements, and I shall factor them in the distribution.
  13. In my ruling of 4<sup>th</sup> October 2024, I determined that the deceased died in 2003, long after the *Law of Succession Act*, Cap 160, Laws of Kenya, had come into force in 1981. That meant that the estate fell for distribution in accordance with the provisions of the Law of Succession Act. He died intestate, according to the petition lodged herein, and the grant of letters of administration intestate issued. No will was brought forth. Having died intestate, his estate should be distributed in accordance with Part V of the *Law of Succession Act*, which regulates distribution upon intestacy. As he died a polygamist, the estate should be distributed in accordance with section 40 of the Law of Succession Act, which regulates distribution of the estate of an intestate polygamist.
  14. Section 40 of the *Law of Succession Act* states:
    - “ 40. Where intestate was polygamous
      1. Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.
      2. The distribution of the personal and household effects and the residue of the net intestate estate within each house shall then be in accordance with the rules set out in sections 35 to 38.”
  15. According to section 40 of the *Law of Succession Act*, the property of the intestate polygamist is initially shared out amongst the houses, depending on the number of children in each house. After that the property is shared in each house, in accordance with sections 35 to 38, depending on the configuration of each house. Section 35 caters for a house comprised of a surviving spouse and children; section 36 covers the house of a surviving spouse who has no children; while section 38 is for the house that has children only, that is with no surviving spouse. It is not clear whether any or all the widows survived the deceased, but it would appear from the Chiefs letter that that is the case. The most relevant provision herein would be section 35(1)(5), which states as follows:
    - “ 35. Where intestate has left one surviving spouse and child or children
      1. Subject to the provisions of section 40, where an intestate has left one surviving spouse and a child or children, the surviving spouse shall be entitled to—
        - a. the personal and household effects of the deceased absolutely; and



- b. a life interest in the whole residue of the net intestate estate: Provided that, if the surviving spouse is a widow, that interest shall determine upon her re-marriage to any person.
    2. ...
    3. ...
    4. ...
    5. Subject to the provisions of sections 41 and 42 and subject to any appointment or award made under this section, the whole residue of the net intestate estate shall on the death, or, in the case of a widow, re-marriage, of the surviving spouse, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children..”
16. As stated above, there were 4 wives, each and her children would make a unit. That would mean that the polygamous household of the deceased comprises of 4 houses. The 1st house comprises of 2 children, given that all the daughters have renounced their shares, and together with the surviving spouse, make a total of 3 units. The 2nd house comprises of 4 children, being 3 sons and the 1 daughter who has not renounced interest, plus the surviving spouse, which would mean it is made up of 5 units. The 3rd house has 1 child and the surviving spouse and comprises of 2 units. The 4th house has 2 sons and 1 daughter who has not renounced interest, plus the surviving spouse, meaning that it has 4 units. In total, the household of the deceased comprises of 14 units. The assets available for distribution shall be divided into 14 units, after which the 14 units shall be shared out in the ratio of 3:5:2:4. See *Kuria and another v Kuria* [2004] KLR (Musinga, J), *Rono v Rono & another* [2005] 1 EA 363 [2005] eKLR (Omolo, O’Kubasu & Waki, JJA), *In re Estate of Katama Nyaki (Deceased)* [2019] eKLR (Muchemi, J) and *Munyole v Munyole* [2022] KECA 373 (KLR) (M’Inoti, Kiage & M Ngugi, JJA).
17. Those entitled to a share in the assets from the 4 houses that make up the estate of the deceased are:
- a. From the 1st house - Anastacia Atsieno Oduori, Lambert Oundo Oduori and Kizito Omondi;
  - b. From the 2nd house - Anne Nabwire Oduro, Makhulo Alfred, Charles Oduori, Ambrose Oduori and the estate of the late Mildred Friday Oduori;
  - c. From the 3<sup>rd</sup> house - Zainabu Shumira Oduori and Self Martin Oduori; and
  - d. From the 4th house - Christine Amiru Oduori, Dennis Oduori, Danstone Kwena and Mary Isabella Akwera Oduori.
18. It emerged that other than the widows and children of the deceased, the siblings of the deceased could be entitled to a portion of the estate, being 1 of the parcels of land registered in his name, and which he is said to be so registered in trust for them. That property is said to be Marachi/Kingandole/249. The siblings of the deceased are Siril Wekheye Akwera, Nicholas Oduya Akwere, the late Heneriko Musundi Akwera and the late Boniface Ndubi Akwera. That property, Marachi/Kingandole/249, should be available for distribution between the estate of the deceased herein, and his 4 siblings or their families. The share due to the estate herein, in Marachi/Kingandole/249, shall be distributed only after the shares due to the 4 siblings of the deceased have been ascertained, and isolated.



19. The property that has been ascertained as available for distribution is Marachi/Kingandole/249, Bukhayo/Mundika/868 and Bukhayo/Mundika/2971.
20. It was asserted that there had been inter vivos or lifetime distribution by the deceased, and the various families occupy and utilise the various portions of the 3 parcels of land based on that inter vivos distribution. I have not seen any evidence of that alleged inter vivos distribution. I saw no minutes relating to it. No survey reports were placed before me to demonstrate how the lands are currently occupied, ostensibly based on that distribution. I have no basis, whatsoever, for concluding that an inter vivos distribution was done by the deceased at all. I shall proceed on the basis that there was no such inter vivos distribution.
21. Inter vivos transfer or the gifting of property by the owner during his lifetime is allowed in law, and the *Law of Succession Act* envisages that, at intestacy, such inter vivos gifting be considered. It is referred to as bringing the property to the hotchpotch. It is intended to achieve fairness, so that those who have already benefitted from the wealth of the deceased, during his lifetime, should not get a second helping after his death, by participating in the distribution of what he died possessed of, unless they demonstrate that whatever they got inter vivos was small comparative to what those who did not benefit would get upon intestacy. See *In re Estate of Francis Waita Mbaki (Deceased)* [2018] eKLR (Muriithi, J).
22. The *Law of Succession Act* deals with it at section 42, which provides as follows:
  - “ 42. Previous benefits to be brought into account Where—
    - a. an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or
    - b. property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35, that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house.”
23. The other way of looking at it is in terms of distribution following boundaries that had been established by the deceased. See *Samuel Maina Mwangi & 2 Others v Muthoni Kagiri* [2013] eKLR (Visram, Koome & Odek, JJA), *In re Estate of Kageto Gitome (Deceased)* [2018] eKLR (Muigai, J), *In re Estate of Ainea Muchusu Busula (Deceased)* [2019] eKLR (Musyoka, J) and *Micheni Aphaxard Nyaga & 2 others v Robert Njue & 2 others* [2021] eKLR (Gitari, J). Ideally, the probate court does not operate to sanction that which the deceased had done during his lifetime, for if he had truly distributed his lands amongst his wives and children, and his siblings, ideally, he should have processed title deeds for them, so that upon his death there would be no succession proceedings, for there would be nothing to be distributed in court. See *In re Estate of Muchai Gachuika (Deceased)* [2019] eKLR (Gikonyo, J) and *Lucia Karimi Mwamba v Chomba Mwamba* [2020] eKLR (Gitari, J). The fact that the matter has had to be brought to court, for succession or distribution, should be testimony to the fact that there was no distribution during the lifetime of the deceased.
24. Some window is allowed, where there is some evidence of lifetime distribution, or an attempt at inter vivos distribution. See *In re Estate of Mutungi Rithara (Deceased)* [2018] eKLR (Gikonyo, J), *In re Estate of M’Mwirabua Ntabua (Deceased)* [2018] eKLR (Ong’injo, J) and *In re Estate of Francis Waruingi Kangethe (Deceased)* [2019] eKLR (Ongeri, J). Such as where some minutes exist of such distribution. Or some drawings or charts or maps done by surveyors. Or mutations drawn, after consent of the Land Control Board had been obtained for the purpose of subdividing the land, and having the sub-divisions transferred and registered in the names of the beneficiaries. The courts have



- said that such would evidence an intention to gift the property during lifetime, or a process of lifetime distribution frustrated by the death of the deceased before completion. The court can sanction such and treat them as lifetime gifting or inter vivos distribution. See *In re Estate of Phylis Muthoni M'Inoti (Deceased)* (2019) eKLR (Gikonyo, J) and *In re Estate of Nyachieo Osindi (Deceased)* [2019] eKLR (Ougo, J). However, there are parameters and criteria for that.
25. There is the principle that, where the process of transfer had been initiated by the deceased, prior to his death, but was completed after his death, the deceased would be deemed as having intended to gift the said property to that beneficiary or person during lifetime, and the same ought to be treated as a gift that was made inter vivos. And where it remained uncompleted after death, there would be justification to allow the completion. See *In re Estate of Gedion Manthi Nzioka (Deceased)* [2015] eKLR (Nyamweya, J), *In re Estate of Nyachieo Osindi (Deceased)* [2019] eKLR (Ougo, J) and *In re Estate of Kiplalang Kiplanduk* [2020] eKLR (HA Omondi, J).
  26. The court should not distribute an estate based on physical occupation on the ground. See *In Re Arusei* [2003] KLR 76 [2003] eKLR (Nambuye, J) and *Leah Chepkemei Kipyego v Mary Chesenge Kipyego* [2007] eKLR (F. Ochieng, J). However, the court may still sanction boundaries that the deceased had established prior to his death, or distribution based on physical occupancy by the beneficiaries, so long as all the parties are in consensus, going by *Justus Thiora Kiugu & 4 others v Joyce Nkatha Kiugu & another* [2015] eKLR (Visram, Koome & Otieno-Odek, JJA) and *In re Estate of Juma Shiro (Deceased)* [2016] eKLR (Mwita, J).
  27. Let me start with the distribution of Marachi/Kingandole/249 as between the deceased and his siblings. There is consensus that that property is ancestral, and the deceased had been registered as its proprietor in trust for his siblings who were either minors or of young age at the time that happened. The said siblings of the deceased are Siril Wekheye Akwera, Nicholas Oduya Akwera, the late Heneriko Musundi Akwera and the late Boniface Ndubi Akwera. There is an argument that Marachi/Kingandole/249 should be shared out equally between the estate of the deceased and his 4 siblings. There is also the argument that there had been a previous sharing or distribution, which was unequal, and which should be maintained. There is also the argument that only 2 of the 4 siblings are entitled, being Siril Wekheye and Nicholas Oduya. The other argument is that Siril Wekheye had his own land, being Marachi/Esikoma/980.
  28. Quite obviously, there is no consensus on the distribution of Marachi/Kingandole/249. As indicated above, no evidence was placed before me on the alleged previous distribution by the deceased as between himself and his siblings. Even if there was such a distribution, dating back to 1989, as alleged, the deceased ought to have gone on to obtain consents to subdivide it and transfer the subdivisions amongst his siblings. He died in 2003, some 14 years after the alleged distribution on the ground. I have dealt with that above. It would be about how the land is occupied on the ground, that is not a basis for distribution in intestacy. For someone dying in 2003, the distribution should follow the provisions of the Law of Succession Act. According to section 38, distribution between siblings should be equal. See *In re Estate of Phylis Muthoni M'Inoti (Deceased)* (2019) eKLR (Gikonyo, J). The alleged distribution of 1989 was unequal. Some allegedly got 10 acres and others got 4 acres. No justification was advanced for the unequal distribution.
  29. For avoidance of doubt, section 38 of the *Law of Succession Act* provides:

“38. Where intestate has left a surviving child or children but no spouse

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.”

30. On the exclusion of some of the siblings, so that only Siril Wekheye and Nicholas Oduya get to benefit, has also not been explained, for the purposes of justification. There is evidence that Siril Wekheye was registered proprietor of Marachi/Esikoma/980, and that could justify his exclusion, on grounds that he had benefitted from an inter vivos gift from their father. However, his son Chrisantos Ndubi has contested that, arguing that, although it was true that there was such a registration, the same was meant to be in trust for the minor son of a brother of his father called Oundo, and that after the said son came of age, Siril Wekheye caused the property to be conveyed to that son.
31. I have seen the green card for Marachi/Esikoma/980. It shows Siril Wekheye as the registered proprietor of that property, but there is nothing to show that the same was held by him in trust for the son of Oundo. I have seen the agreement under which he conveyed the property to the son of Oundo. I have noted that the children of Oundo, whose father appears to have been a sibling of the deceased, have not intervened in these proceedings, to lay a claim to a share in Marachi/Kingandole/249, and I presume that what Chrisantos Ndubi alleges could have some credibility. There has been no serious opposition to Siril Wekheye getting a share.
32. In view of the above, I find and hold that Marachi/Kingandole/249 is available for distribution between the estate of the deceased and Siril Wekheye Akwera, Nicholas Oduya Akwera, the late Heneriko Musundi Akwera and the late Boniface Ndubi Akwera. Going by section 38 of the Law of Succession Act, the said property, Marachi/Kingandole/249, shall be distributed equally between Siril Wekheye Akwera, Nicholas Oduya Akwera, the late Heneriko Musundi Akwera, the late Boniface Ndubi Akwera and the estate of the deceased herein, so that each gets 1/5 share.
33. Having disposed of the distribution of Marachi/Kingandole/249 as between the estate of the deceased herein and his siblings, let me now advert to distribution of the estate of the deceased amongst his immediate survivors.
34. The assets available for distribution amongst his immediate survivors are the 1/5 share in Marachi/Kingandole/249, and Bukhayo/Mundika/868 and Bukhayo/Mundika/2971. I was informed that certain immediate survivors occupy some of these assets. Alfred Makhulo averred that 2 of the widows occupy portions of Marachi/Kingandole/249, being Anastacia Atsieno Oduori and Zainabu Shumira Oduori; while Bukhayo/Mundika/868 was occupied by Anne Nabwire Oduro and her children; and Christine Amiru Oduori occupied Bukhayo/Mundika/2971, and that he had no opposition to having the property distributed in that manner.
35. I have seen the green cards lodged herein. That for Marachi/Kingandole/249 shows the acreage to be 29 acres, or 11.7 hectares. The share due to the estate is 1/5 of the 29 acres, which translates to 5.8 acres, or 2.34 hectares. The acreage for Bukhayo/Mundika/868 is said to be 3.6 hectares, which translates to 8.9 acres. Bukhayo/Mundika/2971 is said to be 0.05 hectare, which translates to 0.123 acre.
36. If the 1<sup>st</sup> and 3<sup>rd</sup> houses, whose total number is 5, take the 1/5 of Marachi/Kingandole/249, each member of those houses would take 1.16 acres, or 0.47 hectare. If the 2<sup>nd</sup> house, which has a total of 5 members, takes the whole of Bukhayo/Mundika/868, each member will take 1.78 acres or 0.72 hectare. If the 4<sup>th</sup> house, which has 4 members were to take the whole of Bukhayo/Mundika/2971, each member would take 0.72 acre or 0.29 hectare. There would be no fairness, yet, on average, going by section 40, as read with sections 35(5) and 38, of the *Law of Succession Act*, the entire estate ought to be shared equally amongst all the survivors of the deceased. See *Kuria and another v Kuria* [2004] eKLR (Musinga, J). Succession is governed largely by equity, and the Chancery in England was the court that



handled probate and administration. Equity is equality. It would be, perhaps, fairer, if all 3 properties were shared equally amongst all the survivors of the deceased. See *In re Estate of M'Ipwi M'Ikiugu (Deceased)* [2020] KEHC 6612 (KLR)(Gikonyo, J), *John Maina Gakuo & another v Veronica Wanjiku Gakuo* [2020] eKLR (Ngaah, J) and *Nkatha & another v Gituma & 2 others* [2022] KEHC 13683 (KLR)(Muriithi, J).

37. I believe that I have set out a sufficient background to justify the making of final orders, which I do hereby make as follows:
- a. That I do hereby confirm Kizito Omondi Oduori, Alfred Makhulo and Timothy Ndubi as administrators of the estate herein;
  - b. That Marachi/Kingandole/249 shall devolve upon the estate herein, Siril Wekheye Akwera, Nicholas Oduya Akwera, the estate of late Heneriko Musundi Akwera and the estate of the late Boniface Ndubi Akwera, in equal shares;
  - c. That the 1/5 share due to the estate herein from Marachi/Kingandole/249, and Bukhayo/Mundika/868 and Bukhayo/Mundika/2971, shall devolve upon the immediate survivors of the deceased, in the ratio of 3:5:2:4, as follows,
    - i. To the house of Anastacia Atsieno Oduori, 3/14 share, devolving upon Anastacia Atsieno Oduori during life interest, and thereafter to Lambert Oundo Oduori and Kizito Omondi, equally,
    - ii. To the house of Anne Nabwire Oduro, 5/14 share, devolving upon Anne Nabwire Oduro during life interest, and thereafter to Makhulo Alfred, Charles Oduori, Ambrose Oduori and the estate of the late Mildred Friday Oduori, equally,
    - iii. To the house of Zainabu Shumira Oduori, 2/14 share, devolving upon Zainabu Shumira Oduori during life interest, and thereafter to Seif Martin Oduori, absolutely, and
    - iv. To the house of Christine Amiru Oduori, 4/14 share, devolving upon Christine Amiru Oduori during life interest, and thereafter to Dennis Oduori, Danstone Kwena and Mary Isabella Akwera Oduori, equally;
  - d. That a certificate of confirmation of grant shall issue accordingly, and the administrators shall have 6 months, from date hereof, to transmit the estate, as required of them by section 83(f) (g) of the Law of Succession Act;
  - e. That, in the event any asset cannot be conveniently subdivided, for devolution purposes, the same shall be valued, sold, and the proceeds of the sale distributed in the ratio of 3:5:2:4, as worked out in paragraph 16 hereabove;
  - f. That shares devolved to the estate of any child or sibling of the deceased who is dead shall be distributed in succession proceedings initiated in his or her name;
  - g. That the matter shall be mentioned, after 60 days, on 24th July 2025, for compliance and further directions;
  - h. That each party shall bear their own costs; and
  - i. That any party aggrieved, by the orders made above, has leave of 30 days, to challenge the orders made herein, at the Court of Appeal.



**RULING DATED, SIGNED AND DELIVERED, VIA EMAIL, AT BUSIA, THIS 24TH DAY OF JANUARY 2025.**

**W MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Magina, instructed by Kibet Adoli & Magina, Advocates for the applicants.

Mr. Bogonko, instructed by Bogonko Otanga & Company, Advocates for Kizito Omondi Oduori.

Mr. Maloba, instructed by Hammerton Maloba & Company, Advocates for Chrisantos Ndubi.

Messrs. Odhiambo & Associates, Advocates for Siril Wekheye and Nicholas Oduya.

