



REPUBLIC OF KENYA



**In re Estate of Webo Wasike Mayungu (Deceased) (Succession Cause  
19 of 2020) [2025] KEHC 5555 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5555 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
SUCCESSION CAUSE 19 OF 2020  
SC CHIRCHIR, J  
APRIL 29, 2025**

**BETWEEN**

**DONALD MUKONES WEBO ..... PETITIONER**

**AND**

**BEATRICE NAFULA WEBO ..... 1<sup>ST</sup> OBJECTOR**

**ANDREW WANJALA WASIKE ..... 2<sup>ND</sup> OBJECTOR**

**RULING**

1. The Administrators of the Estate herein, Donald Mukones Webo, Beatrice Nafula Webo and Andrew Wanjala Wasike (Petitioners) filed for summons for confirmation of Grant dated 30/9/2022.
2. They have indicated that the deceased was survived by 18 children and 4 other beneficiaries. There are 10 parcels of land available for distribution. The parcels are all at the registration Section of Kakamega/Lugari and thus for purpose of this ruling I will refer to the parcels by their numbers only.
3. The proposed distribution is as follows;
  - i. Parcel No 3632: to Joel Juma Webo(whole).
  - ii. Parcel No 3631 – to Donald Mukones Webos (Whole).
  - iii. Parcel No 3633 – to Beatrice Nasambu and Grace Nasimiyu (to share).
  - iv. Parcel No 3630 – to John Simiyu Webo (Whole).
  - v. Parcel No 3638 – to David Wasike Webo (Whole).
  - vi. Parcel No 3639 – to Reuben Wanjala Webo (Whole).
  - vii. Parcel No 3628 – to Patrick Wasikhuyu Webo (Whole).



- viii. Parcel No 3629 – to Daniel Matasi Webo (Whole)
- ix. Parcel No 3634 – to Wasikhuyu Mayungu Webo (Whole).
- x. Parcel No 3627 :To:

Reba Taabu Webo

Gladys Mulongo

Jane Mulongo

Beatrice Nafula Webo

Getrude Meksa Webo..... To share a portion of 0.04 hac

(Xi) Parcel No 3627 to :

Wamalwa Mayungu

Andrew Wanjala

Wasike Mongesa

Ngoye Mayungu..... to share the remaining 4.055 hac

- 4. The summons attracted a protest by one Andrew Wanjala Wasike, he states that some of the deceased's Assets have been left out and some of the dependents have not been provided for. He states that he has a decree against his late brother's estate which has not been taken into account and that the said decree allows him a share of 10 acres.
- 5. The hearing of the summons and protest proceeded by way of oral hearing. I have read the various affidavits statements and oral evidence tendered in court.
- 6. The petitioner has listed several properties but there are no documents of title to show that the aforesaid properties belonged to the deceased and are therefore available for distribution. The only document of ownership is a certificate of official search in respect of Parcel No Kakamega/Lugari/125 from which apparently, emanate various sub – divisions as listed in the affidavit of the Petitioner. However, there is no evidence of ownership of Kakamega/Lugari/125 by the deceased. In event that it has been cancelled, then it needs to be illustrated by a legible and duly registered mutation forms. What has been filed are mutation forms that are not legible, there is also no indication whether the same have been registered at the Lands Registry.
- 7. I also see another document, which appear to be one page of Mutation form in respect of Kakamega/Lugari/3627. Again, this copy is not legible enough and there is no evidence that it has been registered at the appropriate Registry.
- 8. Both the Administrators and the Protestors cannot purport to want to share properties particulars of which have not been provided and illegible or incomplete documents are submitted. They will have to demonstrate more seriousness than what I have seen in these proceedings so far.
- 9. Further, it emerged from the evidence that the deceased was polygamous, but there has been no attempt to indicate which children belong to which house/ wife; whether all the children are alive ,and if not ,whether the said children left their own children behind.
- 10. Further save for the two protesters, Beatrice Nafula Webo and Andrew Wanjala Wasike, there are some survivors who have not signed the consent to the mode of distribution by the Administrators and neither have they indicated that they are waiving their right to inheritance.



11. I have seen a copy of an order issued by the High court in Kakamega on HCC No 74/1989. The order is not certified and there are cancellation which are not countersigned.
12. I have deliberately pointed out the gaps and irregularities in the evidence presented based on the fact that ultimately it is the duty of the family court, once the parties have submitted themselves to it, to ensure that the deceased's property is transmitted, and to the rightful beneficiaries and not to let undue bottlenecks to be an impediment to that objective. Also providing full information will reduce multiplicity of litigation over the same Estate.
13. Consequently, in terms of the proviso to Section 71 (2) (d) of the Law of Succession Act, the confirmation of the Grant is hereby deferred and the petitioners are directed as follows;
  - a. To avail documents of ownership of the deceased properties. b). Let all the children of the deceased be grouped accordingly to the houses. The list to include those who may have died and to further indicate whether those who have died left any children behind.
  - c. To file a certified copy of the court order given on 11/10/2012 in Kakamega HCCC No 74 of 1989; Webo Wasike is Wamalwa Mayungu & 3 others.
  - d. The Petitioners are hereby granted leave to file a further Affidavit for that purpose.
  - e. This matter be given a mention date during the date of this ruling to confirm compliance.

**DATED, SIGNED AND DELIVERED VIRTUALLY ,AT ISIOLO, THIS 29TH DAY OF APRIL, 2025.**

**S. CHIRCHIR**

**JUDGE.**

In the presence of:

Godwin Luyundi- Court Assistant

Mr. Ngugi for the peitioners

Ms Odour for the protestors.

