



**In re Estate of Ahmed Ali Fareh Maktari (Deceased) (Succession Cause
245 of 1998) [2025] KEHC 9106 (KLR) (27 June 2025) (Order)**

Neutral citation: [2025] KEHC 9106 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 245 OF 1998
RN NYAKUNDI, J
JUNE 27, 2025**

IN THE MATTER OF THE ESTATE OF AHMED ALI FAREH MAKTARI (DECEASED)

BETWEEN

SOFIA MOHAMMED ALI 1ST APPLICANT

FARIDA MOHAMMED ALI 2ND APPLICANT

AND

ABDUL K. AHMED ALI 1ST RESPONDENT

GHAYA AHMED ALI 2ND RESPONDENT

ABDALLA AHMED ALI 3RD RESPONDENT

SHARIFA AHMED ALI 4TH RESPONDENT

ORDER

1. This litigation has been in the court corridors and registries since 10th November 1998. The Summons for Confirmation of Grant was first filed on 17th February 2016 and before then an Arbitration Case of the Estate before the Kadhis Court seems to have been adjudicated on 15th October 1999. The High Court subsequently issued a Certificate of Confirmation of Grant on 8th February 2017 which provided as follows:

Schedule



| Name | Description of Property | Share of Heirs |
|--|---|----------------|
| Taher Ahmed Ali | Plot No Nambale 7983/1 | Whole |
| Abdul Khaliq Ahmed Ali | Plot No Nambale 7983/4 & Plot No Bukhayo/ kisoko/3287 | Whole |
| Abdalla Ahmed Ali | Plot No Nambale 7983/16 & Plot No Nambale 7983/19 & | Whole |
| Said Ahmed Ali | Plot No Bukhayo/kisoko/562 Plot No Bukhayo/kisoko/561 | Whole |
| Rashida Ahmed Ali & Zahra Ahmed Ali | Plot No Bukhayo/kisoko/628 | Equally |
| Shariffa Ahmed Ali Ghaya Ahmed Ali & Rukhaya Ahmed Ali | Plot No Eldoret Municipality Block 5/221/1 | Equally |
| Mohammed Ahmed Ali | Plot No Kakamega Municipality 1/24 | Whole |
| Meski Ahmed Ali | Plot No Bukhayo/kisoko/567 | Whole |

2. This Certificate of Confirmation of Grant was amended on 22nd October 2018 but the unfortunate thing is no devolution or transmission of the estate has ever been executed. The record shows that the beneficiaries yet again continued to engage in filing interlocutory applications which seem to be geared in securing justice for the beneficiaries but a deeper analysis they are more of an abuse of the court process than meeting the objective of the fair administration of justice. Whatever reasons that maybe behind this multiplicity of applications and rulings from the various forums of this court, I find no justifiable or correctness, propriety and legality capable of explaining why the estate remains undistributed since 1998 to date in 2025. Hence the constitutional maxim that justice delayed is justice denied.
3. This very Court delivered its decision on 10th February 2023 and made various binding declarations and for purposes of reminding the parties and their respective legal counsels, they were coached in the following language:
 - a. The Letters of the confirmed grant issued on 8th February 2017 and rectified on 16th October, 2018 is hereby annulled on the ground of an omission which left out the name of the late Mohammed Ahmed Ali (deceased) from his share in parcel of land known as Eldoret Municipality/Block 5/221. Therefore, the grant was obtained by making false statement and concealing material facts.



- b. Secondly, Sharifa Ahmed Ali, the 4th Respondent herein, shall render a true probate account for the property known as Eldoret Municipality/Block 5/221 to the court within six months as expressly provided for in section 83 (1)(G) of the *Law of Succession Act*.
- c. Thirdly, the proceeds arising from the management of parcel of land known as Eldoret Municipality/Block 5/221 shall be used to pay a Government Valuer for purposes of undertaking valuation of the aforementioned property and a report shall be prepared and filed in court within the next (60) days so as to enable the court make a determination on how the said property shall be distributed amongst the (4) beneficiaries of the deceased.
- d. Fourthly, Ghaya Ahmed Ali, the 2nd Respondent shall surrender the title to parcel of land known as Eldoret Municipality/Block 5/221 in Court within the next (14) days from the date of this ruling for safe custody.
- e. Finally, status quo on parcel of land known as Eldoret Municipality/Block 5/221 shall be maintained.
- f. Each party shall bear their own costs. This being a family matter involving family members.

It is noteworthy, to mention that issues of any cautions placed on parcel of land known as Eldoret Municipality/Block 5/221 shall be addressed once the Government Valuer has submitted his or her report in Court.

4. In my view, it is clear that the parties have been mentioning this case docket since the last decision of this court on 10th February 2023 with no tangible results to achieve the fair administration of justice in this succession cause. If the time taken to deposit the title deed on 22nd May 2025 is anything to go by, is a sad story of parties filing claims, disputes or suits without the primary objective of delivering the components of human rights remedies. The parties during the status conference have sought to explain what the prolonged delay entails but my view is that the same neither convincing nor satisfactory. I call upon the Advocates of the High Court to rise up to the higher calling of *the Constitution* to diligently cease to held hostage by the beneficiaries or administrators whose main interest is not to transmit the estate to the beneficiaries but to rely on the ever commonly reference words that courts in Kenya are riddled with backlog and delay on adjudication of cases for decades and decades without due care and attention of the fundamental rights and freedoms of the disputants.
5. It is agonizing for this Court that the Ruling of 10th February 2023 and its covenants as decreed remains in limbo. This action by any of the parties to this litigation is classified as contempt on the face of the court. I am inspired by Lord Diplock statement in the case of *The Attorney General v Times News Paper* [1973] 3 ALL ER 54, “In any civilised society it is a function of Government to maintain courts of law to which its citizens can have access for the impartial decision of disputes as to their legal rights and obligations towards one another individually and towards the state as representing the society as a whole. The provision of such a system for the administration of justice by courts of law and the maintenance of public confidence in it are essential if citizens are to live together in peaceful association with one another. Contempt of Court is a generic term descriptive of the conduct in relation to particular proceedings in a court of law which tends to undermine that system or to inhibit citizens from availing themselves of it for the settlement of their disputes. Contempt of court may thus take many forms.”
6. In my view, the actions by the parties cited in the final orders of the Court in the aforesaid ruling are calculated to prejudice and undermine the public confidence of our court system. These facts form the basis of citing the parties for contempt.



Decision

7. For those reasons, I therefore put them on notice that within 14 days from today’s date, positive steps be undertaken to comply with clause 1, 2, 3 and 5 of the Ruling dated 10th February 2023. The compliance orders are indispensable and non-negotiable by this Court unless compelling and substantial circumstances can be demonstrated by either of the parties to this Succession Cause.
8. That this Ruling arises from the Status Conference dated 19th May 2025, 28th May 2025 and 30th May 2025. As a consequence of this, a road map status conference to institute contempt proceedings or to demonstrate that the parties have purged the contempt be held on 10th July 2025.

GIVEN UNDER THE HAND AND SEAL OF THIS COURT ON THIS 27TH JUNE 2025.

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R. NYAKUNDI

JUDGE

