



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

Where Legal Information is Public Knowledge

**In re Estate of George Ragui Karanja (Deceased) (Probate & Administration
1506 of 1997) [2025] KEHC 12378 (KLR) (Family) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 12378 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

FAMILY

PROBATE & ADMINISTRATION 1506 OF 1997

CJ KENDAGOR, J

JULY 31, 2025

IN THE MATTER OF THE ESTATE OF GEORGE RAGUI KARANJA (DECEASED)

BETWEEN

LINCOLN KIMWAKI RAGUI 1ST APPLICANT

GEORGE RAGUI KARANJA 2ND APPLICANT

AND

NELLY WANJIKU KURIA 1ST RESPONDENT

KOIGI WA WAMWERE 2ND RESPONDENT

RULING

1. The Applicants and Respondents are the administrators of the estate of the deceased George Ragui Karanja. The Court issued a Certificate of Confirmation of Grant dated 5th May, 2017 (this amended the earlier Certificate of Confirmation of Grant dated 27th May, 1999), and the parties have been involved in Court over several other applications that were decided. The main issue in dispute is the competing interests relating to the distribution of the assets, taking into account the terrain and existing establishments by the beneficiaries.

2. The application before Court is dated 17th April, 2025 by the Applicants herein.

It seeks the following orders;

1. Spent

2. That this honourable court be pleased to stay of execution against the Respondents and the interested parties or their agents and/or assigns from making further alterations, subdivisions



and/or otherwise adversely dealing in the suit properties pending inter parties hearing and determination of this Application;

3. That this honourable court be pleased to review the judgment of Musyoka, J. dated 3rd May, 2012 and Abida Ali Aroni, LJ, dated 10th February, 2022 (as she then was) to make provision of the following:
 - a. That a burial site be hived off suit LR Dagoretti/Uthiru/146 measuring not more than ¼ acres; the same of which be registered in the names of all beneficiaries jointly;
 - b. That the pendency of the duration under of the review of judgment herein, that this honourable court be pleased to direct for a joint surveyor to be appointed jointly by the mutually agreeable sub-division/mutation plan taking into account development of the terrain of the entire estate and actual development/occupation on LR Dagoretti/Uthiru/146 within (60) days or any other such time deemed appropriate by this hounable court or in the alternative;
 - c. That in default of (a) above, each party do and hereby appoint its own surveyor and to propose an agreed mutation in accordance with the judgment taking into account parameters indicated in the judgment within sixty (60) days or any other such time deemed appropriate by this honourable court;
 - d. That in the alternative to (a) and (b) above that the honourable court be pleased to appoint the District Land Surveyor – Kiambu to prepare the appropriate mutation plans in accordance with the parameters indicated in the judgment and avail the same to the Deputy Registrar – Family Division within sixty (60) days or any other such time deemed appropriate by this honourable court;
 - e. That in the event of lack of consensus between the beneficiaries regarding the distribution of the property (Uthiru Town Property LR/Dagoretti/Kangemi/173 and Plot No.44 Githurai Mwana-Mkia Cooperative Sacco) that a mandatory order does issue compelling the sale by way of public auction and proceeds of the sale to be divided equally between the beneficiaries within sixty (60) days or any other such time as deemed appropriate by court;
 - f. That the honourable court be pleased to issue order directing that any further administration of the estate of the deceased be conducted with full participation of the administrators to the estate.
3. The application is opposed by the respondents and they filed grounds of opposition dated 28th May, 2025 and a Replying Affidavit sworn by the respondents jointly.
4. Parties also prepared submissions which I have duly considered.

The Applicants'case

5. The Applicants assert that the respondents have unjustly side lined them from their roles as administrators, proceeding to make unilateral decisions regarding the management of the property without their involvement or consent. They expressed concern that the Respondents are making unauthorized alterations to the beacons and developments on the property, employing surveyors to carry out these modifications without consultation.



6. They further argue that the decisions on record do not include the burial grounds. Regarding this, the Applicants contend that the burial site has not been explicitly designated in the final distribution to the beneficiaries.
7. They also assert that a review should be conducted to permit the sale by public auction and the division of the proceeds if the parties cannot agree on the best way to distribute the asset Uthiru Town Property LR/Dagoretti/Kangemi/173 and plot No. Githuarai Mwana-Mkia Cooperative Sacco.

The Respondents' case

8. The Respondents assert that the Applicants are abusing the Court process, as previous applications have been heard and determined, raising the same issues.
9. The Respondents contend that the application raises no new issues and assert that the titles in question were duly issued after the Deputy Registrar executed the necessary documents on behalf of the opposing Applicants.
10. The Respondents argue that the matter has been in litigation from 2021 to 2024, resulting in the closing of the file following the supervised subdivision process. The Respondents urge the Court to dismiss the current application by the Applicants, who, having chosen not to appeal the previous rulings, are now attempting to bypass the established legal process in an effort to secure a review.

Analysis and determination

11. The Applicants raised issue with the responses as filed by the Respondents, but the record shows that there is a replying affidavit in addition to the Grounds of Opposition. A ground of opposition is typically used to raise legal and procedural arguments against an application, while a replying affidavit is used to present factual evidence and counter the Applicant's claims. The application is hereby treated as duly defended. The Court will proceed to determine whether the prayers sought are merited.
 12. The summary of the prayers in the application is as follows;
 - i. Prayer for an order directing that further administration of the estate be with full participation of the administrators;
 - ii. Distribution of Parcel Dagorreti/Uthiru/146;
 - a. Review of judgment to include the burial ground on the parcel;
 - b. That the court orders that joint surveyors be appointed to create one mutation plan that considers the land's terrain and current use. Alternatively, each party suggests their own mutation plan. And further, that in the alternative, the District Land Surveyor can prepare the mutation plans based on the parameters given in the court's decision;
 - iii. Distribution of Dagoretti/Kangemi/173 and Plot No. 44 Githurai Mwana-Mkia Cooperative Sacco;
- a. That in the event parties fail to agree on the distribution of these properties, then a mandatory order issues compelling the sale by way of public auction and the proceeds be subdivided between the beneficiaries equally.**
13. The Certificate of Confirmation of Grant dated 5th May, 2017 gave each beneficiary equal shares in the properties of the estate. The Court also issued orders guiding the subdivision to consider the current occupation and developments in the properties.



14. In the decision by Aroni, J. (as she then was), dated 10th February, 2022, the Honourable Judge provided an outline of the various applications filed in Court after the Certificate of Confirmation of Grant that relate to the issue of distribution.
15. Concerning the aforementioned prayer regarding the participation of all administrators, it is important to note the ruling delivered on 9th July, 2018 by Justice Musyoka. In this ruling, the Applicants were cited for their lack of cooperation, prompting the Court to issue an order pertaining to the application dated on 8th November, 2017. The Court dispensed with the production of original titles for purposes of subdivision, which titles were stated to be being held by the Applicants herein and further directed that the Deputy Registrar of the Court would sign the transfer documents on behalf of the Applicants. Subsequently, the record reflects that the Court received confirmation that the Deputy Registrar had duly executed the transfer documents, leading to the issuance of titles accordingly.
16. The stay of execution orders sought by the Applicants is intended to hinder the realization of the Certificate of Confirmation of grant.
17. Additionally, concerning the burial grounds, the same was addressed in the ruling dated 26th November, 2017 by Justice Musyoka and further in the ruling of 25th June, 2020 by Justice Aroni. It is res judicata.
18. Concerning the mutations, the record demonstrates that all parties were granted ample time to address the matter of the mutations. The current and past applications raise the same issue. The Court orders already in the record have meticulously dealt with matters of the terrain and the nature of the developments on the ground. Furthermore, this prayer on mutations has become moot, having been overtaken by events.
19. The parties agreed to share all properties equally; there is no merit in reviewing this. Litigation must come to an end.
20. The application dated 17th April, 2025 is an abuse of the Court process. It is dismissed with costs to the Respondents.
21. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 31ST DAY OF JULY, 2025.

.....

C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Mr. Kihanga, Advocate for the Applicants

Mr. Gitau, Advocate for the Respondents

