



REPUBLIC OF KENYA



In re Estate of Late Alexander Chimungeni Austine Agutu (Deceased) (Succession Cause 101 of 1994) [2025] KEHC 11771 (KLR) (6 August 2025) (Ruling)

Neutral citation: [2025] KEHC 11771 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 101 OF 1994
RN NYAKUNDI, J
AUGUST 6, 2025
IN THE MATTER OF THE ESTATE OF LATE ALEXANDER
CHIMUNGENI AUSTINE AGUTU (DECEASED)**

RULING

- I. Before this court is summons for confirmation seeking the following orders:
- a. That: the consent and agreement reached in court annexed mediation in ELD/MED/175/2023 be adopted as a record of the Honourable court.
 - b. That the grant of probate for letter of administration intestate made to the said Jacqueline Onyango, Rose Annabel Kokonya, Lilian Bertha Chimungeni And Sheilla Joyce Maloba Chimungeni in this matter on 4th November 2024 be confirmed and the estate be divided in terms of the annexed proposed mode of distribution
 - c. That the costs of this application be costs in the cause
Which Application Is Based On Grounds That
 - i. That the estate beneficiaries have amicably agreed to confirm the grant, having agreed on modalities of division of the Estate without any ill will objection or duress
 - i. That any differences that in the past proceeded in this matter was resolved vide mediation in ELD/MED/175/2024
 - iii. That the Estate is desirous of settling its accounts, within itself and as against any liabilities
 - iv. That all nonbeneficiaries are in agreement that the said grant be confirmed and the property divided in terms of the proposed mode of distribution annexed hereto
 2. This same application on confirmation of grant of letters of administration, is also supported by a joint affidavit of JAcqueline Onyango, Lilian Bertha Chimungein And Sheillah Joyce Maloba Chimungeni dated 9.6.2025. In addition, the administrators also filed a consent on the mode of distribution. Incidentally this dispute was unlocked by way of mediation agreement



which I hereby adopt as a judgment of the court. It is on record that the deceased was survived by the following children and dependents.

Name	Relationship
Rose Annabel Chimungeni	Daughter
Lilian Bertha Chimungeni	Daughter
Loice Alukhaba Chumungei	Wife (Now deceased)
Jane Chimungeni Rowe Brassington	Daughter
Paul S. Chimungeni	Son (now deceased)
Charlotte Atsango Serrem	Daughter
Sheila Joyce Maloba Eshiwani	Daughter
Olive Mary Chimungeni	Daughter

3. The net estate to be distributed comprises of the following assets



Schedule Of Property
Marama/shirotsa/955(0.12 Ha) Marama/shirotsa/1067 (0.10 Ha) Marama/shinamwenyuli/625 (2.38 Acres)
Lr No 1664/2 (ir 3478) Butere Town (0.18 Ha) Marama/shinamwenyuli/625 (4 Acres)
Nhc Co-op Plot 71/mumias Town (0.07 Acres) Marama/shinamwenyuli/427
Marama/shinamwenyuli417
Re-allocated To Petitioner
Marama/shinamwenyuli/626 Nhc Co-op Plot 123/mumuias Town
Marama/shinamwenyuli/1235(2.6) Acres
Marama/shinamwenyuli/620 (1.8 Acres) S. Wanga/shikalame/1288 S.wanga/shikalame/1289 S.wanga/shikalame/1290
Marama/shinamwenyuli/629 Marama/shinamwenyuli/625 Marama/shinamwenyuli/1712

Schedule Of Distribution



Description Of Property	Beneficiary	Size	
1	Marama/ shirotsa/955	Rose Kokonya	0.12
2	Marama/ shirotsa/1067	Rose Kokonya	0.10
3	Marama/ shinamwenyuli/1234	Rose Kokoinya	0.25
4	Marama/ shinamwenyali/625	Rose Kokonya	2.38
5	Lr No 1664/2(ir 3478)- Butere Town	Lilian Wamusehenga	0.18
6	Marama/ shinamenyuli/427	Lilian Wamusehenga	3.5
7	Marama/ shinamenyuli/1234	Charlotte Serrem	0.25
8	Marama/ shinamenyuli/626	Charlotte Serrem	0.07
9	Marama/ shinamenyuli/626	Charlotte Serrem	2.2
10	Nhc Co-op Plot 123	Charlotte Serrem	0.07
11	Marama/ shinamenyuli/417	Rowena Chimugeni Brassington	5.0
12	Marama/ shinamenyuli/1234	Jackqueline Onyango	3.5
13	Nhc Co -op Plot 71	Jackqueline Onyango	0.07
14	S.wanga/ shikalame/1288	Sheilla Chimungeni	2.0
15	S.wanga/ shikalame/1289	Sheilla Chimungeni	2.0



16	S.wanga/ shikalame/1290	Sheilla Chimungeni	2.0
17	Marama/ shinamwenyuli/1235	Sheilla Chimungeni	2.6
18	Marama/ shinamwenyuli/620	Sheillah Chimungeni	1.8
19	Marama/ shinamwenyuli/625	Olive Chimungeni	
20	Marama/ shinamwenyuli/629	Olive Chimungeni	2.4
21	Marama/ shinamwenyuli/1712	Olive Chimungeni	1.33
22	Marama/ shinamwenyuli/625	Homestead	4.94
23	Marama/ buchanya/701	Managed By All	1.4
24	Isukha/shirere/83	Managed By All	0.67

4. In this Succession Cause the parties have come a full circle by taking a bold move to invite court annexed mediation forum to resolve the inheritance conflict. It seems that the climate of conflict resolution in family matters demands that we go back to simplifying that which we have deliberately complicated over the last many years since independence. While our legal system has tried to construct procedures and statutes to ensure a just resolution of the disputes in the formal legal system under Article 50 (1) of the constitution it has often failed to provide practical meaningful solutions or to provide closure to those who are primarily affected by such disputes more specifically on inheritance rights. The resolution of this succession matter in the forum of mediation certainly explains why mediation has the promise for the Kenyan people for them to come together may it be a major commercial dispute, family and Succession Disputes, or even under the bigger umbrella of civil disputes. For them to come together and find answers to the issues which are likely to drag in court for decades. While mediation has taken a long time to find its rightful place in Kenya I am glad that the provisions of Art 159 2 (C) on alternative Dispute Resolution Mechanisms is here to stay. This is evidenced by Kenya's matchless performance in its court annexed mediation system. IN less than 20 years we have trained and accredited thousands of mediators including lawyers and some from other disciplines to resolve various disputes across the country. The benefits of it have been clearly demonstrated by the mediation agreement in this cause which I hereby adopt as a judgement of the court by issuing the legal instrument to decree the distribution of the estate to the beneficiaries which is within the provisions of Section 35, 36, 37, &38 of the Law of Succession Act. Therefore, the Deputy Registrar of the High Court shall cause a certificate of confirmation



of grant to be issued for endorsement by this court to facilitate transmission of the shares to the estate for the benefit of the beneficiaries.

5. Orders accordingly.

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 6TH DAY OF AUGUST 2025

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R. NYAKUNDI

JUDGE

