



**In re Estate of Naran Lakhman Ravji (Deceased) (Succession Cause
E020 of 2020) [2025] KEHC 11618 (KLR) (4 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 11618 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE E020 OF 2020
RN NYAKUNDI, J
AUGUST 4, 2025**

IN THE MATTER OF THE ESTATE OF NARAN LAKHMAN RAVJI (DECEASED)

BETWEEN

MAYURIBEN LAKHMAN NARAN 1ST PETITIONER

MANILAL RAVJI NARAN 2ND PETITIONER

AND

MUTHONI NGARUIYA APPLICANT

AND

YASMIN SHAMIRA LAKHMAN OBJECTOR

AND

RAVJI NARAN RABADIA OBJECTOR

MAGHBAI RAVJI NARAN OBJECTOR

RULING

1. The applicants lodged an application dated 25th April, 2025 expressed under the provisions of section 26 of the [Law of Succession Act](#), Rule 45 of the Probate and Administration Rules. The applicants seek the following reliefs:
 - a. Spent.
 - b. Pending the hearing interparties and the determination of the application there be stay of proceedings to have the grant of letters of administration intestate confirmed.
 - c. The applicants be included in the list of dependants/beneficiaries to the estate of the deceased.



- d. Costs of the applications be provided.
2. The application is anchored on grounds that:
 - a. The applicants are father and mother to the deceased.
 - b. The applicants are dependants of the deceased.
 - c. The applicants are beneficiaries to the deceased's estate but they have been left out of the list of beneficiaries.
 - d. That there is need to have the applicants include in the list of beneficiaries to their son's estate.
3. In further support of the application both applicants swore affidavits with similar averments captured as follows:
 - a. That I am a dependant of the deceased and a beneficiary to his estate.
 - b. That due to my advanced age I used to rely on the deceased for the supply of my needs and the deceased used to treat me as his dependant.
 - c. That I have come to discover that the succession cause has began going on without my participation.
 - d. That upon seeing the petition of my son Manilal Ravji Naran's table on 22nd April, 2025, I discovered that my name and that of the mother of the deceased does not appear in the dependants/beneficiaries' list.
 - e. That upon questioning my son and daughter in-law about the anomaly none of them could give an explanation except that they will take care of my interests.
 - f. That I was dissatisfied with the promise and I have decided to have my name and that of the mother of the deceased included in the list beneficiaries/dependants.
 - g. That I have learned from my counsel Mr. Nyambegera that the matter has been set down for the confirmation of Grant and I risk getting nothing out of the estate.
4. As a rejoinder to the application, Learned Counsel Mr. Momanyi for the Petitioners did not oppose the application as filed by the Applicants, whereas Learned Counsel Mr. Mathai raised an objection by filing a Replying Affidavit dated 1st August 2025 sworn by Yasmin Shamira Lakhman in which he deposed as follows:
 - a. That I have been shown by my Counsel on record Mr. Mathai, the application dated 25th April 2025 and served upon him on 25th April 2025 having read it and the same explained to me, I understand its import, content and tenor therein and I know wish to respond as follows: -
 - b. That the applicant has failed to establish that they fall within the category of dependents as provided under section 29 of the [Law of Succession Act](#).
 - c. That the applicants have not demonstrated that they were being supported by the deceased prior to his death.
 - d. That the Applicants have not demonstrated by evidence that the deceased used to pay basic needs.
 - e. That the Applicants have not demonstrated that the deceased used to pay for utilities such as water bills, electricity and other related utilities.



- f. That the Applicants have not demonstrated that they used to live with the deceased under same roof or anywhere where the deceased used to provide for them.
- g. That the Applicants have not demonstrated that they are parents to the deceased by way of certificate of birth.
- h. That no credible evidence has been furnished to demonstrate any form of dependency on the deceased, nor has there been proof of any legal or moral obligation on the part of the deceased to maintain the Applicant.
- i. That I believe the application is calculated attempt to unjustly benefit from the estate of the deceased, contrary to the express provision of the law and the principles of equity and fairness.
- j. That unless orders sought are dismissed, the same will occasion grave injustice to the genuine beneficiaries of the deceased's estate and undermine the lawful administration of the estate.

Analysis and determination

5. The central issue before this court for determination is whether the applicants have adduced sufficient evidence to establish their status as dependents of the deceased within the meaning of section 29 as read with section 26 and 28 the Law of Succession Act, and consequently, whether they are entitled to reasonable provision from the estate.
6. It is settled law that Section 29 of the Law of Succession Act provides for different categories for dependants: Thus

“Section 29(a) provides that a dependant means wife (s), former wife(s) and children whether or not they were being maintained by the deceased prior to death.

Section 29(b) further provides that dependants include, deceased's parents, step parents, grandparents, grandchildren, step children, children whom the deceased had taken into his family as his own, brothers and sisters and half-brothers and half-sisters as were being maintained by the deceased immediately, prior to his death

Section (c) provides that where the deceased was a woman, the husband if he was being maintained by her prior to her death.

Section 29 illustrates that only the wife/wives and children of the deceased are out rightly entitled to the deceased's estate. All other relations (Section 29b and C) need to prove that they were being maintained by the deceased. Upon proving that you are dependant, you are required to apply to court for provision out of the net estate.

7. In re-Estate of MMuthania Mwendwa (Deceased) (2016) eKLR the petitioner (son of the deceased) sought to include his children as dependants of the deceased estate. However, he did not provide any evidence that his children, the deceased's grandchildren was being maintained by him prior to his death. Consequently, the court held that it is not the mere relationship that matters but proof of dependency.
8. The issue is therefore whether the respondents are entitled to provision out of the estate of the deceased, as in their view, there was no provision for them. Section 26 governs provisions for dependants not adequately provided for by will or on intestacy. It states that:

“Where a person dies after the commencement of this Act, and so far as succession to his property is governed by the provisions of this Act, then on the application by or on behalf of a dependant, the court may, if it is of the opinion that the disposition of the deceased's estate



effected by his will, or by gift in contemplation of death, or the law relating to intestacy, or the combination of the will, gift and law, is not such as to make reasonable provision for that dependant, order that such reasonable provision as the court thinks fit shall be made for that dependant out of the deceased's net estate."

9. Section 27 of the same Act provides that "In making provision for a dependant the court shall have complete discretion to order a specific share of the estate to be given to the dependants, or to make such other provision for him by way of periodical payment or a lump sum, and to impose such conditions as it thinks fit.
10. The court has authority to make reasonable provision orders under section 26, applying the criteria established in section 28 of the Act. When determining whether an individual qualifies as a "dependant" of the deceased, the applicant must present evidence demonstrating they meet the specific requirements outlined in section 28. This section establishes the various factors and circumstances that courts must consider when reviewing applications made under section 26.
11. Section 28 states that "In considering whether any order should be made under this part, and if so what order, the court shall have regard to -
 - (a) The nature and amount of the deceased's property;
 - b) Any past, present or future capital or income from any source of the dependant;
 - (c) The existing and future means and needs of the dependant;
 - (d) whether the deceased had made any advancement or other gift to the dependant during his lifetime;
 - (e) The conduct of the dependant in relation to the deceased;
 - (f) The situation and circumstances of the deceased's other dependants and the beneficiaries under any will;
 - (g) The general circumstances of the case, including, so far as can be ascertained, the testator's reason for not making the provision for the dependant.
12. In the case of *Beatrice Ciamutua Rugamba v Fredrick Nkari Mutegi & 5 others* [2016] eKLR, it was observed that "a dependent under section 29(b) and (c) must prove that he or she was being maintained by the deceased immediately prior to his demise. It is not the mere relationship that matters, but proof of dependency that counts."
13. Applying the law to the facts of this case, the applicants as parents of the deceased fall under section 29(b) of the *Law of Succession Act*. Consequently, they bear the burden of proving that they were being maintained by the deceased immediately prior to his death. While the applicants have averred in their affidavits that they relied on the deceased for the supply of their needs due to their advanced age, and that the deceased treated them as his dependents, these assertions remain mere allegations unsupported by concrete evidence.
14. There is once crucial factor in this litigation since it was initiated way back on 17th November 2020. The Petitioners are not desirous to comply with the law of distributing the estate to the beneficiaries that are keener to re-litigate at the interlocutory stage under the penumbra of the statutory framework on identification of the beneficiaries and the net estate of the deceased. Since the year of the Lord 2020, the Petitioners have been on this litigation knowing very well that one of the fundamental questions which must be answered in the first instance is on the identification of the beneficiaries and the net



estate survived of the deceased. It is not lost by this Court that there was a window during the objection proceedings for the parents to the Petitioners to file joinder claims on dependency so that the issues can be settled once and for all. The decision of this Court on the objection proceedings was made way back on 20th November 2023 with an order that summons for confirmation of grant with proposals on the model of distribution be annexed within the provisions of section 35, 36, 37 and 38 of the Law of Succession Act. It is now over 1 year and 8 months, no such positive steps have been undertaken by the Petitioners in compliance with the law. The best they have done is to invite the next of kin to file yet another application though belatedly for this court to expend judicial time to rule on the provisions of section 29 of the Law of Succession Act. For me, I am persuaded to invoke the principles in the case of *Henderson Vs Henderson* (1843-60) All E.R Rep. 378 where the Court stated: -

“...where a given matter becomes the subject of Litigation in, and of adjudication by, a Court of competent jurisdiction, the Court requires the parties to that litigation to bring forward their whole case, and will not (except under special circumstances) permit the same parties to open the same subject of litigation in respect of matter which might have been brought forward as part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted part of their case. The plea of *res judicata* applies, except in special cases, not only to points upon which the Court was actually required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time. It is contrary to public policy and abusive of process that matters which could have been litigated in earlier proceedings should thereafter be allowed to proceed...The rule is a salutary one. It prevents prolixity in litigation and encourages the earliest resolution of disputes.”

15. In this matter, we were in the process of distilling the net estate of the deceased by collecting and correlating data for both movable and immovable assets. By virtue of that status of filing summons for confirmation, the Applicants could have had a chance to be heard that such and such an asset was either owned jointly with the deceased or as a common tenancy rendering certain shares to be wholly devolved to their inheritance so that a decision is reached on the net estate of the deceased. That is what is at stake here and the commencement of a litigation of the nature purposed by the applicants is only targeted to further delay the distribution of the estate as earlier ordered by this court. It appears to me that the parties more so the primary petitioners are diametrically opposed on all matters concerning the purpose for which this succession cause was initiated on behalf of the deceased's estate.
16. I cannot hesitate to add that section 76 of the Law of Succession Act is at the cliff of being invoked to revoke the appointment of the administrators duly appointed by this court under section 66 of the same Act based on the following reasons: that the grant of Letters of Administration is useless and inoperative due to subsequent events which have taken place. That the personal representatives have failed after due notice and without reasonable cause to apply for confirmation of the Grant within one (1) year from the date thereof as ordered by the Court. That certain remedial action needs to be taken by this court for these proceedings not to fall within the maxim of being an abuse of the court process which limits inheritance rights to the beneficiaries.
17. The applicants have failed to adduce any documentary evidence or provide specific details regarding the nature, extent, or frequency of the maintenance they allegedly received from the deceased. There is no evidence of financial records, bank statements, receipts, or any other documentation that would substantiate their claims of dependency. Neither have they provided evidence of their current financial circumstances, income sources, or assets that would enable this court to assess their actual need for provision from the estate.



18. The mere fact that they are the biological parents of the deceased does not automatically entitle them to provision from the estate. As established in the Beatrice Ciamutua Rugamba case (*supra*), biological relationship alone is insufficient; what matters is proof of actual dependency at the time of the deceased's death.
19. In the absence of credible evidence establishing the applicants' status as dependents within the meaning of section 29(b) of the [Law of Succession Act](#), this court cannot make the orders sought. The application lacks the evidential foundation necessary to satisfy the legal requirements for dependency and provision from the deceased's estate.
20. In light of the foregoing analysis and for the reasons stated above, the application dated 25th April, 2025 is hereby dismissed with no orders as to costs.
21. Orders accordingly.

DATED, SIGNED AND DELIVERED VIA EMAIL AND CTS AT ELDORET, THIS 4TH DAY OF AUGUST 2025

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R. NYAKUNDI

JUDGE

