

KENYA / JUDGMENT

In re Estate of Karobia (Deceased) [2026] KEHC 12855 (KLR)

[2026] KEHC 12855 (KLR)

COURT

High Court

BEFORE

MA Otero

CASE / FILE NUMBER

Probate & Administration E013 of 2024

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REPUBLIC OF KENYA IN THE HIGH COURT OF KENYA AT NYERI FAMILY DIVISION PROBATE AND ADMINISTRATION CAUSE NO. E013 OF 2024 IN THE MATTER OF THE ESTATE OF ZACHARIA MURIUKI KAROBIA (DECEASED) AGNES NYAMBURA MURIUKI STEPHEN MUGO MURIUKI.....PETITIONERS/APPLICANTS VERSUS CHARLES NDIRITU MURIUKI CAROLINE WAMUYU MURIUKI.....OBJECTORS

JUDGEMENT

1. Before this Court is the Amended Summons for confirmation of Grant dated **10th April 2025** in which the Petitioner/Applicants **AGNES NYAMBURA MURIUKI and STEPHEN MUGO MURIUKI** seek that the Grant of letters of Administration Intestate made to them jointly on **23rd September, 2024** be confirmed.
1. The eight (8) named Protestors all opposed confirmation of the Grant through their Answer to Amended Summons dated **17th June 2025** sworn by **CHARLES NDIRITU MURIUKI** (the 8th Objector) and **CAROLINE WAMUYU MURIUKI** (the 6th Objector). The Court directed that this 'Answer to Amended Summons' be treated as the Affidavit of Protest.
1. The matter was canvassed by way of written submissions. The Applicants filed the written submissions dated **18th December 2025** whilst the Protestors relied on their written submissions dated **31st October 2025** as well as their Rejoinder dated **16th January 2026**.

BACKGROUND

1. This succession cause relates to the estate of the late **ZACHARIA MURIUKI KAROBIA** (hereinafter 'the Deceased') who died intestate on **29th March 2023**. A copy of the Death Certificate Serial Number **1466317** is annexed to the petition for Grant of letters of Administration Intestate dated **15th March 2024**.

1. The Deceased was a polygamous man and was survived by two wives and several children as follows:-
 - a. PENINAH NJAMBI MURIUKI - WIDOW - 1st wife
 - b. VIRGINIA WAMBUI MURIUKI - WIDOW - 2nd wife
 - c. PERIS WANJIRU MURIUKI - DAUGHTER
 - d. STEPHEN MUGO MURIUKI - SON
 - e. AGNES NYAMBURA MURIUKI - DAUGHTER
 - f. ALICE WAMUYU MURIUKI - DAUGHTER
 - g. SUSAN WANGUI MARIUKI - DAUGHTER
 - h. BEATRICE MUTHONI MURIUKI - DAUGHTER
 - i. ROSEMARY WANJIKU MURIUKI - DAUGHTER
 - j. MICHAEL KAROBIA MURIUKI - SON
 - k. LEAH NJERI MURIUKI - DAUGHTER
 - l. ELIZABETH WANJIRU MURIUKI - DAUGHTER
 - m. JOSEPH KAROBIA MURIUKI - SON
 - n. STEPHEN MAINA MURIUKI - SON
 - o. CAROLINE WAMUYU MURIUKI - DAUGHTER
 - p. CHARLES NDIRITU MURIUKI - SON
 - q. SAMUEL MWANGI MURIUKI - SON
6. The estate of the Deceased comprised of the following assets:-
 - a. LAIKIPIA SALAMA MURUJU BLOCK 1/2606
 - b. NAROMORU/KIAMATHAGE/BLOCK 1/342
 - c. NAROMORU/KIAMATHAGE/BLOCK 1/343
 - d. NAROMORU/KIAMATHAGE/BLOCK 1/339
 - e. NAROMORU/KIAMATHAGE/BLOCK 1/338
 - f. NAROMORU/KIAMATHAGE/BLOCK 1/340
 - g. NAROMORU/KIAMATHAGE/BLOCK 1/341
 - h. MAGUTU/RAGATI/1005

7. Following the demise of the Deceased letters of Administration Intestate were on **23rd September 2024** issued jointly to the four applicants. The Applicants then filed a summons for Confirmation of Grant dated **4th December 2024**. The 6th and 8th Protestors filed an Affidavit of Protest dated **13th December 2024** opposing the mode of distribution of the estate.
8. The Applicants then filed this Amended Summons for Confirmation of Grant dated **10th April 2025** in which they proposed that all the assets left behind by the Deceased be distributed '**equally**' amongst the seventeen (17) beneficiaries.
9. The Protestor opposed the Amended Summons on grounds that the Deceased had during his lifetime made gifts of certain parcels of land to some of the beneficiaries which gifts they submitted ought to be taken into account.
10. The Protestors further stated that their Aunt **REGINA NYAKAIRU NDIRITU** was widow to one **Charles Nderitu Karobia** who when he passed away in the year **1994** left his wife under the care of the Deceased. That the Deceased had gifted this Lady **one (1) acre** out of LR No. **Naromoru Kiamathage Block 1/343** where she lived with her family. The applicants therefore asserted that this **Regina Nyakairu** was a defendant of the Deceased who ought to be allocated a share of the estate. The Protestors proposed that the estate of the Deceased be distributed as follows:- **Annexure "A" – Proposed Land Distribution Summary Table** | | | | |
--- | --- | --- | --- | --- | | **Parcel No.** | **Acreage (Approx.)** | **Deceased's Intention/gift intervivos** | **Beneficiaries Proposed by 2nd Family** | **Family allocation** | | **NAROMORU KIAMATHAGE BLOCK 1/339** | **8 acres** | **Elizabeth Wanjiru Muriuki to hold in trust for Joseph Karobia Muriuki** | **Elizabeth Wanjiru Muriuki to hold in trust for Joseph Karobia Muriuki** | **2nd Family** | | **NAROMORU KIAMATHAGE BLOCK 1/338** | **8 acres** | **Charles Ndiritu Muriuki** | **Charles Ndiritu Muriuki** | **2nd Family** | | **NAROMORU KIAMATHAGE BLOCK 1/3340** | **8 acres** | **Leah Njeri Muriuki to hold in trust for Stephen Maina Muriuki** | **Leah Njeri Muriuki to hold in trust for Stephen Maina Muriuki** | **2nd Family** | | **NAROMORU KIAMATHAGE BLOCK 1/341** | **8 acres** | **Caroline Wamuyu Muriuki to hold in trust for Samuel Mwangi Muriuki** | **Caroline Wamuyu Muriuki to hold in trust for Samuel Mwangi Muriuki** | **2nd Family** | | **NAROMORU KIAMATHAGE BLOCK 1/342** | **8 acres** | **Beatrice Muthoni Muriuki to hold in trust for Michael Karobia Muriuki** | **Beatrice Muthoni Muriuki to hold in trust for Michael Karobia Muriuki** | **1st Family** | | **NAROMORU KIAMATHAGE BLOCK 1/343** | **2.5 acres** | **Regina Nyakairu Ndiritu (1.0 acre) where she resides. 1.5 acres has no testamentary documentation** | **Regina Nyakairu Ndiritu (1 acre) and Penina Njambi Muriuki (1.5 acres) for the 1st family.** | **1st & family & our Aunt, Regina Nyakairu where she resides.** | | **SALAMA MURUKU BLOCK 1/2026** | **22.5 acres** | **No testamentary directions** | **Penina Njambi Muriuki to hold in trust for the 1st family** | **1st Family** | | **MAGUTU RAGATI/1005** | **1.5 acres** | **No testamentary directions** | **Penina Mjambi Muriuki in joint with Virginia Wambui Muriuki to hold in trust for Karobia family** | **1st and 2nd family in equal allocation** | **Total Allocation to the 1ST FAMILY is 32 ACRES** **Total Allocation to the 2ND FAMILY is 32 ACRES** **Total Allocation to our Aunt, REGINA NYAKAIRU NDIRITU 1 ACRE**

ANALYSIS AND DETERMINATION

11. I have considered the Amended Summons for Confirmation of Grant dated **10th April 2024** the Protest dated **17th June 2025** as well as the written submissions filed by the parties. It is not disputed that the Deceased in this matter passed away on **2nd March 2023**, nor is it in dispute that the Deceased was a polygamous man who had two wives and several children. The names and identities of the children of the Deceased are not disputed. The main bone of contention in this succession cause is the mode of distribution of the estate.
 12. Given that the Deceased was polygamous the distribution of his estate ought to be governed by **Section 40** of the **Law of Succession Act** which provides as follows:- **“40 (1) where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.**
 - (2) **The distribution of the personal and household effects and the residue of the net intestate estate within each house shall then be in accordance with the rules set out in sections 35 to 38.**
 13. In this case, the Applicants through the Amended Summons for Confirmation proposed the equal distribution of assets among the two (2) houses. **Section 40** envisages that division of the net intestate estate shall, in the first instance, be among the houses according to the number of children. Any surviving wife is to be an additional unit to the children.
 14. The courts have addressed the Application of **Section 40** in polygamous households in several cases. In *Re Estate of John Musambayi Katumanga - (Deceased)* [2014] eKLR Hon. Justice William Musyoka stated as follows; **“Section 40 was not designed for the circumstances of the instant estate, but it would appear more appealing for the purpose of the distribution of the said estate than Section 35. The spirit of Part V, especially Sections 35, 38 and 40, is equal distribution of the intestate estate amongst the children of the deceased. There have been debates on whether the distribution should be equal or equitable. My reading of these provisions is that they envisage equal distribution for the word used in Sections 35 (5) and 38 is “equally” as opposed to “equitably”. This is the plain language of the provisions. The provisions are in mandatory terms – the property “shall.... Be equally divided among the surviving children,” Equal distribution is envisaged regardless of the ages, gender, and financial status of the children.”**
 15. Further Hon. Justice Joel Ngugi (as he then was) in *Re Estate of Kamau Rungathu (Deceased)* (Succession Cause 479 of 1994)
- [2022] KEHC was of the view that **Section 40** of the **Law of Succession Act** is meant to ensure the ‘**equitable distribution**’ of the estate. In that case the Honorable Judge held as follows;- **“The literal interpretation of the above provision is that the estate is first distributed among the houses, depending on the number of children in each house, with any**

surviving spouse being an additional unit. Thereafter, the assets allocated to each house are distributed within each house in accordance with sections 35 to 38 of the Law of Succession. The Courts have, however, cautioned against the uniform application of Section 40. In *Scolastic Ndululu Suva v Agnes Nthenya Suva* [2019] eKLR, the Court of Appeal recommended a case-to-case application of Section 40 of the Law of Succession Act as follows: It is therefore evident that, although section 40 of the Law of Succession Act provides a general provision for the distribution of the estate of a polygamous deceased person, the court has discretion to take into account the factual circumstances of the particular case that may be relevant in ensuring equitable and fair distribution of the estate. The Court of Appeal further observed in *Jane Nyambura Ndungu v Beatrice Wangari Ndungu & 2 Others* [2021] eKLR: *Section 40 of the Law of Succession Act is not a magic pill that can be applied to resolve all issues pertaining to the distribution of a deceased person's estate. In as much as section 40 LSA talks of 'Equal Shares,' the distribution must also be equitable.* The common thread from the above case law is that Section 40 of the Law of Succession Act is meant to ensure the equitable distribution of the estate and not necessarily the equal distribution. In arriving at the mode of distribution, the Court is to be guided by the facts of each case, including the circumstances of the beneficiaries at the time of distribution."

16. **Black's Law Dictionary** defines the term 'equal' and - 'equitable' As follows:- "refers to fairness, justness and conformity to principles of natural justice, often involving consideration of individual circumstances, while 'equally' signifies a condition of being the same in quantity, degree, or value.
17. In *Mary Rono v Jane Rono & Another* [2005] eKLR, Omolo JA, had this to: "My understanding of that section is that while the net intestate estate is to be distributed according to houses, each house being treated as a unit, yet the Judge doing the distribution still has a discretion to take into account or consider the number of children in each house. If Parliament had intended that there must be equality between the houses, there would have been no need to provide in the section that the number of children in each house be taken into account. Nor do I see any provision in that Act that each child must receive the same or equal portion....."
18. On the same note, in *re Estate of M'Ramare Nkunga (Deceased)* [2018] eKLR, Hon. Justice Gikonyo stated: "My view is this: Section 40 of the Law of Succession Act is an existing law which must be read with such alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution. See section 7 of the Transitional and Consequential Provisions, Sixth Schedule of the Constitution."
19. The Applicants proposal envisages an equal distribution of the estate where each beneficiary receives 1/8th of the deceased's estate.

20. **Section 40** of the Act has to be applied based on the peculiar facts of each case in the circumstances. It cannot be applied in a blanket manner as proposed in the Amended Summons for Confirmation filed by the Applicants. In *re Estate of Githumbi Kanyari (Deceased)* (Succession Appeal 2 of 2017) [2022] KEHC Hon. Justice Kanyi Kimondo held that:- “**Section 40 does not however, take away the discretion of the court to distribute the estate fairly. By dint of sections 26, 27, 28, 29 and 35 of the Act, as read together with Rule 73 of the Probate and Administration Rules, the court has been clothed with complete discretion to provide for dependents or beneficiaries.**”
21. The Protestors oppose the Amended Summons for Confirmation of Grant on grounds that the mode of distribution of the estate proposed therein, proposes the redistribution of properties which had already been allocated, transferred and settled by the Deceased during his lifetime to various beneficiaries as ‘**gifts inter vivos**’ **Section 42 of the Law of Succession Act** which deals with gifts inter vivos provides as follows:- “**Where (a) an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or**

(b) **property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35, that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house.** [Emphasis my own]
22. In *Khalifa Abdalla Khamis v Mohamed Abdalla Khamis* [2021] eKLR Hon. Justice Nyakundi observed that it is a requirement that the right to dispose of property by will or gift is exacting in its requirement. Further in *Re: Estate of the Late Gedion Manthu Nzioka (deceased)* [2015] eKLR Hon. Justice Nyamweya (as he then was) stated as follows: “**In Law, gifts are of two types (gift inter-vivos and gifts made in contemplation of death (gifts Mortis Causa). For gifts inter-vivos, the requirements of law are that the said gift may be granted by deed, an instrument in writing, or by delivery, by a way of a declaration of a trust by the donor, or by way of resulting trusts or the presumption of gifts of land must be by way of registered transfer, or if the land is not registered it must be in writing or by a declaration of a trust in writing. Gift’s inter-vivos must be complete for the same to be valid.**” [Own emphasis]
23. In the case of *Micheni Aphaxard Nyaga and 2 others v Robert Njue & 2 others* [2021] eKLR, the Court explained the concept of a gift vivos as follows: “**The characteristics of the gifts inter vivos are that they are made and settled during the lifetime of the deceased and have been identified, awarded and settled for the person to whom it has been given. It is a gift made to a beneficiary when the deceased was alive and is considered when distributing the net intestate estate so that the person who received it may be considered as having received his share and may reduce or diminish any entitlement to the net intestate estate.**”

24. The Applicants contended that the gifts had not been completed i.e transfers to the proposed donees had not occurred and thus the same could not be considered as gifts inter vivos. The Respondents retorted that the Deceased had commenced the process of transferring the said parcels of land, but that due to restrictions arising from the COVID pandemic, the ill-health of the Deceased himself and lack of finances the full transfer could not be completed.
25. It is trite law that he who alleges must prove. In law the burden of proof lies upon the party who asserts the existence of a fact or set of facts. **Section 107 of the Evidence Act CAP 80 Laws of Kenya** provide as follows:- **“Burden of proof 107 (1) whoever desires any court to give judgement as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exists.**
 - (2) **When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.”**
26. In the case of **EVANS NYAKWANA -VS- CLEOPHAS BWANA ONGARO [2015] eKLR**, it was held that:- **“As a general preposition the legal burden of proof lies upon the party who invokes the aid of law and substantially asserts the affirmative of the issue. That is the purport of Section 107(1) of the Evidence Act Chapter 80, Laws of Kenya. Furthermore, the evidential burden is cast upon any party, the burden of proving any particular fact which he desires the court to believe in its existence. That is captured in Section 109 and 112 of the law of proof of that fact shall lie on any particular person....”** [Own emphasis] Therefore the onus lies on the protestors to adduce evidence sufficient to satisfy the court on a balance of probability that the deceased did in fact make the gifts of land as alleged. Legally there are two categories of gifts intervivos being
 1. **Where the gift intervivos has been fully perfected i.e there is evidence or a full transmission, transfer and registration of the gift in favour of the donee. The court will during distribution of the estate take into account such a gift in order to avoid a double allocation to the donee in question.**
 2. **Where the gift has not been perfected i.e the gift has not been transmitted, transferred or registered. Here the court will have to determine whether the actions done by the Deceased to perfect such gifts are sufficient to render such gift inter vivos as complete and as such qualified to be sanctioned by the Court.**
27. In support of their claims the protestors have annexed the following documents
 1. **A completed consent dated 13th September 2018 for transfer of LR NAROMORU KIAMATHAGE BLOCK 1/341 from the Deceased Zakaria Muriuki Karobia as a gift to Deceased and Caroline Wamuyu Muriuki.**
 1. **A completed consent dated 13th September 2018 for the transfer of LR NAROMORU/ KIAMATHAGE BLOCK 1/339 from the Deceased Zakaria Muriuki Karobia to Deceased and Elizabeth Wanjiru Muriuki.**

2. A completed consent dated 9th September 2018 for transfer of LR NAROMORU/ KIAMATHAGE BLOCK 1/340 as a gift from the Deceased Zakaria Muriuki Karobia to the deceased and Leah Muriuki Karobia.
28. The Protestors also annexed incomplete applications for consent to transfer in respect of the following parcels of land;-
 - (d) LR NAROMORU KIAMATHAGE BLOCK 1/338 to Charles Muriuki Ndiritu.
 - (e) LR NAROMORU KIAMATHAGE BLOCK 1/342 to Michael Karobia Muriuki. Applications (d) and (e) in respect to land which the deceased intended to transfer to Charles Muriuki Ndiritu and Michael Karobia Muriuki were not completed. The applications for transfer in respect of the other gifts claimed by the protestors are non existent.
29. The critical questions that arises is whether any of the alleged gifts of land made by the deceased are valid and can be upheld by the court. The characteristics of a gift inter vivos is that the gift is ‘made and settled’ during the lifetime of the deceased. The requirement in law for such gifts to be valid is that they must have passed from the deceased to the recipient i.e that the gift no longer belongs to the deceased.
30. In HALSBURYS LAWS OF ENGLAND 4th Edition Vol 20(1) at Paragraph 67 it is stated that:-
“Where a gift rests merely in promise whether written or oral, or in unfulfilled intention, it is incomplete and imperfect, and the court will not compel the intending donor or those claiming under him to complete and perfect it, except in circumstances where the donors subsequent conduct gives the donee a right to enforce the promise. A promise made by deed is however, binding even though it is made without consideration. If a gift is to be valid the donor must have done everything which according to the nature of the property was necessary to be done by him in order to transfer the property which it was in his power to do. “Own emphasis]
31. In RE ESTATE OF GEDION MANTHI NZIOKA (Deceased) [2015] eKLR, the Court held that:-
“.....Gifts of land must be by way of registered transfer, or if the land is not registered it must be in writing or by a declaration of trust in writing. Gifts intervivos must be complete for the same to be valid. In this regard it is not necessary for the donee to give express acceptance, and acceptance of a gift is presumed until or unless dissent or disclaimer is signified by the donee. (Emphasis added).”
32. In Odunga’s Digest on Civil Case Law and Procedure Volume III, Page 2417 at Paragraph 5484 it is stated as follows “Generally speaking the moment in time when the gift takes effect is dependent on the nature of the gift; the statutory provisions governing the steps taken by the donor to effectuate the gift. Equity will not come to the aid of volunteer and therefore, if a donee needs to get an order from a court of equity in order to complete his title, he will not get it. If, on the other hand, the donee has under his control everything necessary to constitute his title completely without any further assistance from the donor, the donee need no assistance from equity and the gift is complete. It is on that principle

that in equity it held that a gift is complete as soon as the donor has done everything that the donor has to do that is to say as soon as the donee has within his control all those things necessary to enable him, complete his title. Where the donor has done all in his power according to the nature of the property given to vest the legal interest in the property in the donee, the gift will not fail even if something remains to be done by the donee or some third person. Likewise, a gift of registered land becomes effective upon execution and delivery of the transfer and cannot be recalled thereafter even though the donee has not yet been registered as a proprietor.” [Own emphasis]

33. From the evidence on record and in respect of the parcels of land known as **LR Naromoru Kiamathage Block 1 338, 341, 339 and 340**, I note that although consent forms were duly filled and consent to transfer obtained, the transfer forms in respect of the said parcels of land were neither completed nor registered. All that the Deceased did was to sign blank transfer forms - the details in the said forms were not completed, the requisite photographs were not attached and the transfer forms were never presented for registration. In my view none of the said gifts had been perfected.
34. In each case consent of the Land Control Board to transfer the parcels of land was obtained in **September 2018**, however by the time of the deceased's death **five (5) years** later in **March 2023** no steps had been taken to complete the said transfers. The reasons advanced by the Protestors for this delay being the COVID-19 pandemic and ill health of the Deceased are not persuasive. In any event Covid did not become an issue in Kenya until **March 2020** when the first case of Covid was detected.
35. I therefore find that there was no gift inter vivos as claimed as he alleged gifts were never perfected/completed. The gifts were never fully settled and the Protestors cannot claim ownership or right to the said parcels of land. The original Title documents for the said parcels of land which are annexed to Protestors list of Documents filed on **31st October 2025**, show that the said parcels of land are still registered in the name of the Deceased. Accordingly I do find and hold that **LR Naromoru Kiamathage Block 1/338, 339, 340 and 341** form part of the estate of the Deceased and are available for distribution to the beneficiaries.
36. In respect of the other alleged gifts I find that in the absence of signed consents the said gifts were not completed by the deceased before he died. Therefore I find and hold that the following properties also form part of the estate of the deceased and are available for distribution to the beneficiaries.
 - (a) **LAIKIPIA/SALAM/MURUKU BLOCK 1/2606**
 - (b) **LR NAROMORU KIAMATHAGE BLOCK 1/343**
 - (c) **LR NAROMORU KIAMATHAGE BLOCK 1/342**
 - (d) **LR NAROMORU KIAMATHAGE BLOCK 1/1338**
 - (e) **MAGUTU/RAGATI/1005**

37. The Protestors also claimed that one **Regina Nyakairu** was a dependant of the deceased and that the deceased had allocated to her one acre of land out of **LR NAROMORU KIAMATHAGE BLOCK 1/343**.
38. **Section 29 of the Law of Succession Act** provides for persons who are dependants of a deceased person. In the case of **BEATRICE GAMUTUA RUGAMBA -VS- FREDRICK NKARI MENGI & 5 Others**
- [2016] eKLR, the Court held that;- “.....a dependant under Section 29 (a) and (b) 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.” [Own emphasis]
39. By all accounts this **Regina Nyakairu** was an adult who was said to be living with her children on the land in question. No evidence was presented to this court to prove that the said **Regina Nyakairu** depended on the deceased for a living or for the upkeep of his children. There was no evidence to show that she was dependent on the deceased immediately prior to his demise. Nor was there any evidence that the deceased had during his lifetime transferred one (1) acre of land to this **Regina Nyakairu**. I find and hold that in the absence of proof of dependency **Regina Nyakairu** cannot be deemed to be a beneficiary to the estate of the deceased. As such I find that the entirety of the parcel of land known as **LR NAROMORU KIAMATHAGE BLOCK 1/343** forms part of the estate of the Deceased and the same is available for distribution to the beneficiaries.
40. This is a succession cause which has been hotly contested. The parties were unable to reach any compromise regarding distribution of the estate. In my view justice would be best served by ordering an equal distribution of the estate to all the beneficiaries.
41. **Section 47 of the Law of Succession Act** provides as follows:- “The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient. Provided that the High Court may for the purpose of this section be represented by Resident Magistrates appointed by the Chief Justice.”
42. Likewise **Rule 73 of the Probate and Administration Rules** provides that “73 Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”
43. Finally I find that this protest has no merit and the same is dismissed in its entirety. Accordingly I do allow the Amended summons for confirmation of Grant dated **10th April 2025**. I direct that the net estate of the Deceased be distributed **equally** in accordance with paragraph 3 of the Supporting Affidavit dated **10th April 2025**.

44. This being a family matter each side will bear their own costs. It is so ordered. **Dated in Nyeri this 14th day of August, 2026 MAUREEN A. ODERO JUDGE**

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