



REPUBLIC OF KENYA



**In re Estate of Kipsoi Sigilai alias Kipsoi Arap Sigilai (Deceased) (Succession Cause 131 of 2014) [2024] KEHC 9236 (KLR) (31 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9236 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 131 OF 2014**

**JK SERGON, J**

**JULY 31, 2024**

**IN THE MATTER OF THE ESTATE OF THE LATE KIPSOI  
SIGILAI ALIAS KIPSOI ARAP SIGILAI (DECEASED)**

**BETWEEN**

**NAOMI CHEPNGETICH KIRUI ..... APPLICANT**

**AND**

**KIPKOSKEI ARAP SOI ..... 1<sup>ST</sup> RESPONDENT**

**SARAH CHEPNGENO SOI ..... 2<sup>ND</sup> RESPONDENT**

**RUSI CHEBOO SOI ..... 3<sup>RD</sup> RESPONDENT**

**EDWARD KIPKEMOI KOECH ..... 4<sup>TH</sup> RESPONDENT**

**WESLEY KIPKOECH TERER ..... 5<sup>TH</sup> RESPONDENT**

**REBECCA CHEROTICH ..... 6<sup>TH</sup> RESPONDENT**

**RULING**

1. The application coming up for determination a summons dated 23rd October, 2023 seeking the following orders;
  - (i) Spent
  - (ii) That the Deputy Registrar Kericho Law Court to execute transfer documents in favour of the petitioner/applicant herein in respect of land parcel no. L.R No. Kericho/Kapsuser/1030 on behalf of the respondent herein so as to give effect to the certificate of confirmation issued by this court on 8th May, 2023.
  - (iii) That this honourable court be pleased to give further direction with regards to this application.



- (iv) That the costs of this application herein be provided for.
2. The application is supported by grounds on the face of it and the supporting affidavit of Naomi Chepngetich Kirui the applicant herein.
  3. The applicant avers she is a beneficiary of the estate of the deceased who was the registered owner of the land parcel L.R No. Kericho/Kapsuser/1030 measuring 8.4 ha. The applicant further avers that she petitioned for letters of administration in the estate of the deceased herein and that this court issued a certificate of confirmation of grant dated 8th May, 2023.
  4. The applicant avers that she prepared and submitted forms to the land's offices at Kericho but the objectors/respondents have become uncooperative and that it was therefore necessary that the Deputy Registrar of this court be given authority to sign the forms which are requisite for transmission of the properties of the estate of the deceased and thereby give effect to the grant.
  5. The applicant avers that she is the administrator of the estate with a duty to render a true and just account of the estate of the deceased and to administer the estate of the deceased in accordance with the law.
  6. The applicant avers that upon mediation they all agreed that they shall be visiting the lands office on October, 2023 yet KIpkoskei Arap Soi, Sarah Chepngeno Soi, Rusi Cheboo Soi, Edward Kipkemoi Koech, Wesley Kipkoech Terere, Rebecca Cherotich Cheriri and Monica Chepwogen Langat the objectors/respondents herein have declined, failed and/or neglected to execute all instruments of transfer by transmission of the estate thereby causing her and other beneficiaries of the estate irreparable damage. The application is unopposed.
  7. Having considered pleadings, the sole issue for determination by this court is whether to allow the Deputy Registrar to execute transmission documents in respect of the estate. The answer is in the affirmative.
  8. The law under Section 83(g) requires that the properties be distributed within 6 months or such longer period as the Court may allow after the confirmation of the grant. In *Re Estate of Gitere Kabura (deceased)* [2020] eKLR the court stated that the primary mandate of the probate court is distribution of the estate and once an order is made distributing the estate, the Administrators must comply or the Court would be compelled to remove them as Administrators. The court further stated that administrators have a duty to the beneficiaries to ensure distribution of the estate within the stipulated time.
  9. Court orders are not made in vain. The *Law of Succession Act* envisages the administration of the Estate to be completed within six months from the date of the confirmation of grant. It places a duty on personal representatives to complete the administration of the estate. Section 83(i) of the *Law of Succession Act* provides;

“To complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.”



10. The respondents have a duty to complete the administration by executing the necessary documents which are necessary to conclude the administration of the estate of the deceased. Section 47 of the Law of Succession Act provides that:

“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.”

11. It gives this court powers to make such orders as may be expedient in the interests of justice. It is the view of this Court that the respondents have no basis for refusing to sign the requisite documents to give effect to the grant issued on 8th May, 2023 and therefore complete the administration of the estate of the deceased as provided under the law.

12. Rule 73 of the Probate and Administration Rules gives this court inherent powers to make such orders as may be necessary to meet the ends of justice, or to prevent abuse of the court process. I find that the application is merited.

13. The respondents have a duty as administrators of the estate of the deceased to sign and or execute all the requisite documents for transmission of L.R No. Kericho/Kapsuser/1030 pursuant to the certificate of confirmation of grant issued on 8th May, 2023. This Court therefore allows the Application dated 23/10/2023 thus giving rise to issuance of the following Orders:-

(i) The respondents namely:- Kipkoskei Arap Soi, Sarah Chepngeno Soi, Rusi Cheboo Soi, Edward Kipkemoi Koech, Wesley Kipkoech Terer and Rebecca Cherotich are directed to sign and or execute all the necessary documents for transmission of L.R No. Kericho/Kapsuser/1030 within 21 days from the date hereof.

(ii) If the respondents fail to comply with this order, the Deputy Registrar of this court is authorised to sign/execute all the necessary documents in place of the Respondents to effect the transmission of L.R No. Kericho/Kapsuser/1030 to the beneficiaries.

(iv) Costs be in the cause.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 31ST DAY OF JULY, 2024.**

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**J.K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Miss Kitur for the Petitioner

Miss Koech for the Respondent

