



**Kiptingos & another v Too (Succession Cause 440 of 2013)
[2023] KEHC 22761 (KLR) (28 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22761 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE 440 OF 2013
HK CHEMITEI, J
SEPTEMBER 28, 2023
IN THE MATTER OF THE ESTATE OF THE LATE CHEROTICH
LANGO KIKWAI - (DECEASED)**

BETWEEN

REUBEN KIPKEMOI KIPTINGOS 1ST APPLICANT

ROBERT KIBII KIPNGENY 2ND APPLICANT

AND

RICHARD KIBET TOO RESPONDENT

RULING

1. The summons by the applicants dated October 25, 2022 prays for the following orders;
 - (a) The court be pleased to review its orders granted in this cause on May 14, 2020.
 - (b) The grant of letters of administration intestate issued to Robert Kibii Kipngeny and Reuben Kipkemoi Kiptingos which was revoked on May 14, 2020 be reinstated.
 - (c) The grant of letters of administration intestate issued to Robert Kibii Kipngeny and Reuben Kipkemoi Kiptingos as joint administrators of the estate of the late Cherotich Lango Kikwai (deceased) be confirmed in line with the schedule of distribution of property attached hereto.
 - (d) Costs be in the cause.
2. The application is supported by the sworn affidavit of Robert Kibii Kipngeny sworn on even date.
3. The application has been opposed by Richard Kibet Rono vide the replying affidavit sworn on December 16, 2022.



4. The issues herein are clearly discernible. The late Cherotich Lango Kikwai passed on and the applicants petition for letters of administration which were granted on October 26, 2015. The said grant was challenged by one Tapkili Chelangat Langat successfully and the same was revoked.
5. The said Tapkili Chelangat Langat was directed to apply for the grant and the applicants directed to file their objection as creditors to the estate.
6. While this was pending Tapkili Chelangat passed on and according to the applicants she left no heir or dependants. They have therefore filed this application seeking that the orders of May 14, 2020 be reviewed and the original grant in their favour be reinstated.
7. The applicant's content that since the court had already acknowledged them as creditors the simple way therefore was to reinstate the grant and have them share out the single property in the estate. In any case, they claimed that the Settlement Fund Trustee had already acknowledged them as the rightful owners and they attached copies of correspondences from the said Fund.
8. As stated above the respondent had opposed the said application stating that it is true that the deceased passed on but it is also not true that she left no heirs. That they were dependants as per the chief's letter attached to the said affidavit.
9. In the premises the applicants cannot claim to be beneficiaries as the grant they seek to reinstate had already been revoked by the court.
10. The court directed the parties to file written submissions which they have complied. I have perused the same together with the attached authorities.
11. What is evident is that it is true that the court had found prima facie evidence that the applicants were creditors to the estate. There is no dispute that they are in occupation of the suit parcel of land.
12. The respondent admit that they were not deceased children and that she treated them like her sons and daughters as per the chief's letter dated September 19, 2022 which has indicated the dependants as Grace Chebet, Lilian Terer, Richard Kibet Rono, David Kiprono Mosonik and Daniel Kipkemoi Rono.
13. I have perused the courts record and it is evident that when the late Tapkili Chelangat Langat was contesting for the revocation of grant stated above the respondents were nowhere. As a matter of fact, the respondent deponed that the deceased treated them as her children. The extent of the treatment is not indicated.
14. Looking wholesomely this matter, the fact that the applicants had been recognised as creditors lance credence to their quest for the letters of administration. The respondents still have a chance to challenge the same as objectors where they will be able to lay bare their association and relationship with the deceased.
15. For now, I do find merit in the application. However, it will be untidy to resurrect the earlier grant which this court had revoked. The proper way is to issue a fresh grant to the applicants and the respondents will have a chance as well to challenge it.
16. It is noted that the respondents on October 4, 2022 had applied to this court to replace the late Tapkili Chelangat Langat. That application for the orders herein stands dealt with.
17. The application is allowed as hereunder;



- (a) The applicants herein Robert Kibii Kipngeny and Reuben Kipkemoi Kiptingos are hereby appointed joint administrators of the estate of the late Cherotich Lango Kikwai (deceased).
- (b) Richard Kibet Rono be at liberty within 30 days from the date herein to file objection proceedings to the above grant.
- (c) Each party shall bear its own costs.

DATED SIGNED AND DELIVERED AT NAKURU VIA VIDEO LINK THIS 28TH DAY OF SEPTEMBER 2023.

H K CHEMITEI

JUDGE

