



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Kiprotich Arap Ngeno (Deceased) (Succession Cause E003 of 2021) [2022] KEHC 11157 (KLR) (29 July 2022) (Ruling)

Neutral citation: [2022] KEHC 11157 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
SUCCESSION CAUSE E003 OF 2021**

**RL KORIR, J
JULY 29, 2022**

BETWEEN

BENSY CHEPKEMBOI CITOR

AND

CAROLINE CHERONO 1ST CITEE

JOSEPHINE NGENO 2ND CITEE

RULING

1. The Citor herein filed a Citation dated 26th July 2021 that sought an order seeking the two Citees herein, Caroline Cheronon and Josephine Ngenon to enter an appearance and thereafter accept or refuse Letters of Administration of all the estate of Kiprotich Arap Ngenon or show cause why the same should not be granted to Bensy Chepkemboi and Kipkosgei Rotich.
2. The Citor's case was that the deceased died on 11th November 2003 leaving behind an estate that comprised of Kericho/itembe/371. It was her further case that together with the Deceased's family members, they have lived on the aforementioned parcel of land. That the family members were:-
 - i. Caroline Cheronon Ngenon (daughter to the deceased)
 - ii. Emily Chepngeno Ruto (daughter of the deceased)
 - iii. Josephat Rono (grandson to the deceased)
 - iv. Bernard Rono (grandson to the deceased)
 - v. Milka Chepkoech (granddaughter to the deceased)
 - vi. Aaron Rono (grandson to the deceased)
 - vii. Gideon Rono (grandson to the deceased)



- viii. Collins Rono (grandson to the deceased)
 - ix. Bensy Chepkemoi (daughter of the deceased)
 - x. Josephine Ngeno (Adapted)
 - xi. Taplelei Ngeno (widow)
 - xii. Kipkosgei Arap Rotich (son of the deceased)
3. The Citor stated that Josephine Ngeno who was her step mother and Caroline Cherono who was her step sister were not willing to jointly administer the deceased's estate with the rest of the family. That her efforts to reach them to have a discussion on the administration of the estate have bore no fruit.
 4. I have considered the Citor's Application dated 26th July 2021 together with the supporting affidavit and I have noted that the two Citees were properly served with the said Application. There is an Affidavit of Service on record sworn by Paul Kiplimo Kogo on 9th November stating that the 2 Citees were served in person.
 5. There is also an Affidavit of Service sworn by Wesley Kiprotich Ngeno stating that the two Citees were served with a Mention Notice to attend court on 10th February 2022. The two Citees did not attend court.
 6. On 10th February 2022, this court ordered the Citor to serve Summons to Caroline Cherono, Josephine Ngeno, Emily Chepngeno, Nicholas Kibet, Gladys Cherono and Nancy Cherotich. There is an Affidavit of Service on record sworn by Wesley Kiprotich Ngeno on 25th July 2022 indicating that the aforementioned people were served with the Summons on 22nd July 2022. The Summons were not heeded as the Citees failed to attend court on the scheduled date of 25th July 2022.
 7. The Citor attached a Certificate of Official Search on land number Kericho/itembe/371. The Search indicated that Kiprotich Arap Ngeno (deceased) was the registered owner of the aforementioned parcel of land. This then made the Citor and Kipkosgei Rotich beneficiaries of the estate of the deceased by virtue of being the daughter and son respectively of Kiprotich Arap Ngeno.
 8. Rule 22 (1) of the *Probate and Administration Rules* provides that:-

A citation may be issued at the instance of any person who would himself be entitled to a grant in the event of the person cited renouncing his right thereto.

It is therefore clear that all beneficiaries have an equal right to the estate of a deceased save for the express wishes of the deceased. In this case, the Citor has satisfactorily demonstrated to this court that the Citees have refused to take out Letters of Administration.
 9. In the absence of any opposition to the Citation and the Citor having produced documentary evidence to show her beneficial interest in the estate, I find in favour of the Citor.
 10. The Citation dated 26th July 2021 is allowed. The Citor is at liberty to file a Succession Cause in respect of the estate of Kiprotich Arap Ngeno.

Orders accordingly.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 29TH DAY OF JULY, 2022.

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R. LAGAT-KORIR



JUDGE

Ruling delivered in the presence of Bensy Chepkemoi (Citor) acting in person and Kiprotich (Court Assistant)

