



In re Estate of Michael K. Sang alias Michael Kiprono A. Sang (Deceased) (Succession Cause 114 of 2013) [2022] KEHC 16523 (KLR) (16 December 2022) (Ruling)

Neutral citation: [2022] KEHC 16523 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 114 OF 2013
AN ONGERI, J
DECEMBER 16, 2022
IN THE MATTER OF THE ESTATE OF MICHAEL K. SANG ALIAS
MICHAEL KIPRONO A. SANG - (DECEASED)**

BETWEEN

CAROLINE CHEBET RONO APPLICANT

AND

JOHN KIPKORIR RONO 1ST RESPONDENT

NANCY CHEPKEMOI SANG 2ND RESPONDENT

RULING

1. The Application coming for consideration in this ruling is the one dated 22/6/2021 seeking the following orders;
 - i. That this application be and is hereby certified as urgent and the service of the same be dispensed with in the first instance.
 - ii. That an order to compel the administrators to provide to the court full and accurate accounts of dealings in respect of the estate. Further, the court makes a finding that the Respondents have not completed their task of administration as the administrators of the estate and compel them to complete their task therefore.



- iii. That the Respondents be compelled to transit 59.9 Acres of the parcel of land registered under Kericho/Chepseon/blc 11(sitian) 19 to the Applicant as per the grant dated April 11, 2017.
 - iv. That costs of the application be borne by the Respondents.
- 2. The Application is based on the grounds on the face of it and supported by the Affidavit of Caroline Chebet Rono.
- 3. The Applicant avers that she is a beneficiary of the estate of the deceased.
- 4. The Applicant further avers that after the demise of Michael Kiprono Sang (deceased), sometime in 2013, the Respondents/Petitioners applied for grant of letters of administration in respect of the estate, the grant of letters of administration was issued and subsequently confirmed.
- 5. The Applicant was awarded a share of land on the land parcel registered under Kericho/Chepseon/Block 11(sitian) 19.
- 6. The Applicant avers that the Respondents/Petitioners transmitted the land parcel registered under Kericho/Chepseon/Block 11(sitian) 19, new titles were issued and the register of the parcel therein at the Land's office has since been closed.
- 7. The Applicant avers that she has not been provided with her title deed of her allocated share as per the certificate of grant.
- 8. The Applicant avers that it is only fair and just for the court to give orders compelling the administrators to provide to the court full and accurate accounts of dealings in respect of the estate. Further, that the court makes a finding that the Respondents have not completed their task of administration as the administrators of the estate and compel them to complete their task therefore and proceed to issue with her title deed.
- 9. The Applicant is apprehensive that if the court does not grant the orders sought, she will be disinherited and will not acquire a share of the estate as per the certificate of grant and the same would render her and her children homeless.
- 10. The Respondent in response to the application filed a Replying Affidavit dated 11/3/2022 opposing the application.
- 11. The Respondent avers that he is the Petitioner/Administrator in the estate of Micheal Kiprono Sang (deceased) after having been issued with the grant of letter of administration intestate on 6/5/2014.
- 12. The Respondent avers that the Applicant's reliance on the certificate of grant dated 11/4/2017 to seek prayers in her application was a deliberate act of misleading the court.
- 13. The Respondent avers that the court issued a rectified certificate of confirmation of grant dated November 13, 2017 and subsequently issued orders on November 27, 2018 directing that all the beneficiaries of the estate get an equal share of LR NO. Kericho/Chepseon Block Ii (sitian) 19, Kericho/Kipkelion/Chepseon Block 12 (Ngatumek)17 & Kericho/Kipkelion/Chepseon Block 12 (Ngatumek)15. The court further directed that the administrators ought to file a further affidavit reflecting the changes in the distribution of the three properties, each beneficiary to get a total of 44.34 acres and that the administrator ought to have the properties resurveyed and security to provided by the OCPD Kericho.



14. The Respondent avers that they have so far executed the resurvey of the properties and found that some of the properties were less than what was captured in the certificate of grant and further that they were having challenges in coordinating the meetings of all beneficiaries in an attempt to redistribute the estate as per the directions of the court on November 27, 2018.
15. The Respondent avers that titles were issued to some beneficiaries under the previous mode of distribution; however, these titles will have to be cancelled in order to effect the court directions on equal distribution directing that each beneficiary gets 44.34 acres thus affecting all the prior modes of distribution and the titles issued therein.
16. The Respondent avers that following the court order on equal distribution of the estate properties, the applicant cannot by herself get all the 59.9 acres as she claimed, it was erroneous and, in the circumstances, untenable.
17. The Respondent therefore sought to have the application dated 22/6/2021 dismissed on the grounds that the application was premature and unmerited.
18. The parties filed written submissions which I have considered.
19. The Applicant contended that Respondents/Petitioners applied for letters of administration, which grant was confirmed and the Respondents went ahead to carry out the transmission of the grant, contrary to the confirmed grant they left out the Applicant/Beneficiary. The Applicant has since not received her title deed of her share as per the certificate of the confirmed grant.
20. The Applicant was therefore seeking the court to compel the Respondents/Applicants herein to provide to the court full and accurate dealings in respect of the estate and further direct the Respondents to complete their task of transmitting to the Applicant her share of the estate and ensure that she acquires her title.
21. The Applicant contended that that the administrators had neglected and/or reneged to fully administer the estate of the deceased and they equally had failed to render true and accurate accounts of the estate as required by law.
22. The Applicant reiterated that she was granted 59.9 acres of land in the confirmed grant, despite numerous efforts to get the said property the same has not been devolved and/or transmitted to her as required by law.
23. The Applicant maintains that section 47 of the [Law of Succession Act](#) and rule 73 of the [Probate Rules](#) donate the requisite powers for the court to intervene in the aforementioned circumstances and give orders not limited to the removal of administrators and/or ordering the Deputy Registrar to sign the transmission forms. The Applicant reiterated that the law requires that the properties be distributed within 6 months after the confirmation of the grant. The Applicant cited several cases in support of her case; [In Re Estate of the Late Kubuta Kamara Nguuro alias Pharis Njegegy \(deceased\)](#) [2021] eKLR, [In Re Estate of Gitere Kabura \(deceased\)](#) [2020] Eklr & Kerugoya Succession Cause No 36 of 2013, [Re Estate of Wilfred Munen Ngumi \(deceased\)](#) [2020] eKLR.
24. The Applicant maintains that the instant matter was ripe for revocation and issuance of grant of letters of administration de bonis non to new administrators. The Applicants cited the case of [In Re Estate of Peter Machisu Shirekuli \(Deceased\)](#) [2022] eKLR.
25. The Respondents conceded that the crux of the matter at hand was the Applicants/Beneficiary's application seeking orders compelling the administrators to transfer 59.9 acres to her as per the terms of the grant dated 11/4/2017.



26. The Respondents reiterated that there was a subsequent rectification of grant which led to issuance of a rectified certificate of confirmation of grant dated November 13, 2017.
27. The Respondents contended that the application filed by the Applicant was based on a grant that was overtaken by events by dint of the issuance of a rectified certificate of confirmation of grant.
28. The Respondents reiterated that following the issuance of a rectified certificate of grant, the court gave orders directing that all beneficiaries should get an equal share of the estate properties, each beneficiary to get 44.34 acres.
29. The Respondents cited various challenges they were facing in implementing the court order for equal distribution of the estate properties.
30. The Respondent conceded that titles were issued to some beneficiaries under the previous mode of distribution; however, following the court orders for equal distribution of the estate on November 27, 2018, these titles issued under the previous mode of distribution would be revoked.
31. Finally, it was submitted on behalf of the Respondents that the Applicant's application was unmerited, practically impossible to execute and any orders issued based on it will be in vain in light of the complexities and orders of the court on November 27, 2018.
32. The issues for determination are as follows;
 - i. Whether the Petitioners should be compelled to give accounts.
 - ii. Whether land parcel No Kericho/Chepseon/Block II (Sitian) 19 should be registered in the name of the Applicant.
33. The grant of letters of Administration was issued to Nancy Chepkemoi Sang and John Kipkorir Rono on 6/5/2014. The same was confirmed on 11/4/2017.
34. The court issued a rectified certificate of confirmation of grant under rule 43 (1) Cap 160 *Law of Succession Act* dated November 13, 2017 and subsequently issued orders on November 27, 2018 directing that all the beneficiaries of the estate get an equal share of the estate properties.
35. I therefore find that it is not clear what the protestor seeks the Administrators to account for. The mandate of the Administrators is to distribute the Estate
36. The Administrators are granted 30 days to execute the certificate of confirmation issued herein. Failure to do so, the grant will be revoked in accordance with Section 76 of the *Law of Succession Act*.
37. I direct that the certificate of confirmation be executed accordingly.
38. The Application dated 22/6/2021 has no merit and the same is dismissed.
39. Each party to bear its own costs.

Delivered, signed and dated at Kericho this 16th day of December 2022.

A. N. ONGERI

JUDGE

