



REPUBLIC OF KENYA

IN THE HIGH COURT

AT KERICHO

SUCCESSION CAUSE NO.157 OF 2012

IN THE MATTER OF THE ESTATE OF KIPSIGEI ARAP CHUMO alias KIPSIGEI ARAP CHUMO (DECEASED)

JONAH KIPKURUI SIGEI.....1ST PETITIONER

REUBEN KIPROTICH SIGEI.....2ND PETITIONER

ERIC KIPKORIR SIGEI.....3RD PETITIONER

VERSUS

ESTHER CHEPKEMOI CHUMO.....OBJECTOR

JUDGMENT

1. The objector herein, **ESTHER CHEPKEMOI CHUMO**, filed a Summons for revocation dated 11/8/2014 seeking the following orders;
 - i) **THAT the grant of letters of Administration made to JONAH KIPKURUI SIGEI, REUBEN KIPROTICH SIGEI and ERICK KIPKORIR SIGEI on 22/7/2013 and confirmed on 6/5/2014 be revoked and/or annulled.**
 - ii) **THAT the resultant title from KERICHO/KABARTEGAN/56, KERICHO/KABARTEGAN/331 and KERICHO/KABARTEGAN/335 be restored to the original title deeds for fair and proper distribution of the Estate.**
 - iii) **THAT the Respondent be condemned to bear the costs of this Application.**
2. The objector filed a Supporting Affidavit dated 11/8/2014 in which she deposed that she is one of the unmarried daughters of the deceased herein **KIPSIGEI ARAP CHUMO** alias **KIPSIGEI ARAP CHUMO** (deceased) who died intestate on 19/10/2005.
3. The objector further deposed that the deceased gave her land parcel No. **KERICHO/KABARTEGAN/335** measuring 12 Acres and further that the Respondents who are her brothers have sold part of the property belonging to the deceased which was to be shared equally.
4. The hearing of this case proceeded orally. The objector who called one witness (**HENRY KOSGEI**) said the deceased herein **KIPSIGEI ARAP CHUMO** alias **KIPSIGEI ARAP CHUMO** who was her father died in 2005.
5. The objector said prior to his death, the deceased gave her land parcel No. **KERICHO/KABARTEGAN/355** measuring 12 Acres in 1983 when she divorced her husband.
6. **HENRY KOSGEI**, the objector's witness, said he lives at **CHEMOSIT** and the objector is her neighbour. He said he has known her since childhood. He said in 1983 the deceased told him Esther was being troubled by her husband and he wanted her to leave her husband and he would give her land at Chemosit.
7. **HENRY KOSGEI** also said he later learnt that the objector moved to the land and after that her brothers attacked her on the land.
8. **JONAH KIPKURUI SIGEI** the 1st petitioner said when the objector left her husband, the deceased gave her ½ an acre of land and she is still staying in the ½ Acre which she was given. **JONAH** said their father had 3 wives and the 12 acres were divided into 3 portions of 4 Acres each for each house.

9. **REUBEN KIPROTICH SIGEI** the 2nd petitioner also said when their father died in 2005, the three of them petitioned the Estate and they were issued with grant of letters of Administration and each house got 4 acres of the suit property. He said the objector should get a share from the 1st house.

10. **ERICK KIPKORIR SIGEI**, the 3rd petitioner also said the objector should demand a share from the 1st house. **ERICK** said he was born on the suit property and they all live there. He said the land was divided into three portions and each house got 4 acres.

11. **STEPHEN ROP** who is a neighbour to the petitioners said he is a Village Elder and he knows the objector as a sister to the petitioners. He said the suit property was divided into 3 portions and the objector lives on her mother's portion of the land.

12. **ANNAH CHUMO and LUCY CHUMO** who are step mothers to the objector also testified. They said they are the 2nd and 3rd widows of the deceased herein respectively. They said the land was divided into three portions and the objector is entitled to a share from her mother's portion.

13. I find that there is no dispute that the deceased herein died intestate on 19/10/2005. The deceased was survived by the following.

First House

- i) Ezekiel K. Sigei – Son***
- ii) Alice C. Kimetto – Daughter – Married***
- iii) Esther C. Langat – Daughter – Married***
- iv) Jonah Kipkurui Sigei – Son***
- v) David Sigei – Son***
- vi) Mary Chelangat – Daughter – Married***
- vii) Elijah Sigei – Son***
- viii) Sarah Cherotich – Daughter – Married***
- ix) Wilson Sigei – Son***

Second House

- i) Lucy C. Chumo – Widow***
- ii) Reuben Kiprotich Sigei – Son***
- iii) Lilian Chebet – Daughter – Married***
- iv) Jackline Chelangat – Daughter – Married***
- v) Wesley Sigei – Son***
- vi) Charles Sigei – Son***
- vii) Geoffrey Sigei – Son***
- viii) Flossy Chepkurui – Daughter – Married***
- ix) Kennedy Sigei***

Third House

- i) Ann C. Chumo – Widow***
- ii) Lily Chepkurui Langat – Daughter – Married***
- iii) Albert Kibet Sigei – Son***

iv) *Rose Cherotich – Daughter – Married*

v) *Eric Kipkorir Sigei – Son*

vi) *Benard Cheruiyot Sigei – Son*

14. There is evidence that the three petitioners, **JONAH KIPKURUI SIGEI, (1st house) REUBEN KIPROTICH SIGEI (2nd house) and ERICK KIPKORIR SIGIE (3rd house)** petitioned for grant of letters of Administration and they were issued on 22/7/2013 and the certificate of confirmation was issued on 6/5/2014.

15. The properties were shared equally amongst the 3 houses. The objector filed the summons for Revocation dated 11/8/2014 seeking to revoke the grant on the ground that the deceased gave her the entire parcel comprising **KERICHO/KABARTEGAN / 335** measuring 12 acres exclusively after she divorced her husband in 1983 and she has been occupying the entire parcel alone.

16. The objector called one witness, **HENRY KOSGEI** who said the deceased told him that the objector was being troubled by her husband and he wanted her to come back home and he would give her land.

17. The law requires that when a person gives his property intervivos, he is required to transfer the property during his life time as well as hand over possession.

18. In the current case, the property was not transferred to the objector when her father was alive.

19. The evidence of the objector and her witness that the property was given exclusively is not supported by any evidence.

20. I do not believe the objector that she is entitled to the entire 12 acres to the exclusion of the entire family.

21. The three petitioners called 3 witnesses and said they are settled on the land which was divided equally amongst the three houses.

22. The petitioners also said the objector is entitled to a portion from the share belonging to the 1st house.

23. I find no basis for revoking the grant and certificate of confirmation issued herein. The objector is listed as one of the beneficiaries of the Estate.

24. I find that the Summons for Revocation filed by the objector dated 11/8/2014 lacks in merit and I dismiss the same.

25. Since this is a family dispute I order that each party bears its own costs of the suit.

26. Since the suit property has already been subdivided into 3 portions, the objector will get a share from the 1st house where she belongs.

Delivered, dated and signed at Kericho this 19th day of November, 2020.

A. N. ONGERI

JUDGE