



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

SUCCESSION CAUSE NO.131 OF 2014

IN THE MATTER OF THE ESTATE OF THE LATE:

KIPSOI SIGILAI alias KIPSOI ARAP SIGILAI.....DECEASED

AND

KIPKOSKEI ARAP SOI.....1ST PETITIONER

SARAH CHEPNGENO SOI.....2ND PETITIONER

RUSI CHEBOO SOI.....3RD PETITIONER

RULING

1. The deceased in this matter, Kipsoi arap Sigilai, died on 16th March 1984. An application for letters of administration intestate of his estate was made on 26th June 2014 by one of his daughters, Naomi Chepngetich Kirui. According to form P&A 5 filed with the application, the following were the beneficiaries still surviving at the time of the making of the application:

i. Rebecca Chepngeno (married daughter)

ii. Kipkoskei arap Soi (son)

iii. Naomi Chepngetich Kirui (unmarried daughter)

2. His other sons, Kiproop arap Soi and Kimutai arap Soi, who are also deceased, were married and were survived by their widows, Sarah Chepngeno and Rusi Cheboo Soi.

3. The estate of the deceased comprised one property, **L. R. No. Kericho/Kapsuser/1030** measuring 8.4 ha. A grant of letters of administration intestate was issued to the petitioner, Naomi Chengetich Kirui, on 27th March 2015. However, by a consent made between the counsel for the parties in this matter on 7th March 2017, the said grant was cancelled and a fresh grant issued to the petitioner and the objectors.

4. The objectors, Kipkoske arap Soi, Sarah Chepngetich Soi and Rusi Cheboo Soi had filed their objection dated 8th March 2016 following an application for confirmation of grant by the petitioner dated 19th November 2015 in which she had sought equal distribution of the estate of the deceased. The objectors had alleged that they had subdivided the deceased's land in 1996, and been issued with titles thereto. They further alleged that the petitioner had left her matrimonial home and returned home to demand a share of the estate. They further alleged that a meeting held on 17th October 2009 had resolved that each of the objectors should give the petitioner 0.3 of an acre. They therefore proposed that the petitioner should get 0.9 ha, while they each retained the remaining parcel, to be divided equally between themselves, and that each would get 2.448 ha.

5. It is evident from the documents filed in court that the objectors were not truthful in their averments and statements. First, they could not have lawfully subdivided the deceased's land in 1996. A grant of letters of administration intestate had not been issued, so any purported distribution of the land, and any title issued subsequent thereto, would have been an unlawful intermeddling with the estate.

6. Secondly, the titles allegedly issued to the objectors had been cancelled by a consent order entered into between the parties in **Kericho High Court Civil Suit No.47 of 2011 Kipkoske arap Soi vs Naomi Chepngetich**. In that suit, as deposed by the 1st petitioner in her affidavit sworn on 21st March 2016 in opposition to the objection, the parties agreed that the original title, **Kericho/Kapsuser/1030** be restored and title numbers **Kericho/Kapsuser/3346, 3347 and 3345** be cancelled. A copy of the said order, given on 15th February 2014, is

annexed to the said affidavit. It has not been challenged by the objectors.

7. Accordingly, it is my finding that the property of the deceased, **Kericho/Kapsuser/1030**, shall be distributed to the four petitioners equally as proposed by the 1st petitioner, Naomi Chepngetich Kirui. The distribution shall be as follows:

a) Naomi Chepngetich Soi-2.1 ha

b) Kipkoske arap Soi-2.1 ha

c) Sarah Chepngeno Soi-2.1 ha for herself and for her children David Cheruiyot, Stanley Kibet, Joseph Kiplangat, Wilson Kipngetich, Geoffrey Kiproch and Stella Chepkemoi

d) Rusi Cheboo Soi- 2.1 ha for herself and in trust for her children Mathew Kipkoech, Wesley Kibet, Lily Chelangat, Irine Cheron and Gilbert Kiproch.

8. The 2nd, 3rd and 4th petitioners have persisted in lying to the court in the various documents filed in court. Despite the consent order entered in February 2014, the three petitioners have persisted in asserting that they had sub-divided the deceased's land and had titles to it, to the exclusion of the 1st petitioner, solely on the basis that she was the daughter of the deceased. As late as 2nd October 2017, Kipkoske arap Soi filed an affidavit in which he maintained that the 1st petitioner should only get 0.9 ha while he and the widows of his deceased brothers got 2.448 ha out of the estate of the deceased. In the circumstances, the 1st petitioner is granted the costs of these proceedings assessed at Kshs.20,000/-.

Dated, delivered and signed at Kericho this 15th day of February 2018.

MUMBI NGUGI

JUDGE