



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KERICHO**  
**SUCCESSION CAUSE NO.173 'B' OF 2002**

**IN THE MATTER OF THE ESTATE OF SAMUEL TIROP KIPROTICH**  
**alias KIPROTICH ARAP TIROP – DECEASED**

**AND**

**LEAH CHELANGAT TIROP - PETITIONER/RESPONDENT**

**VERSUS**

**JOEL KIPRONO KERING - APPLICANT**

**R U L I N G**

Alice Chepkoskei Tirop took out the summons for revocation of grant dated 3<sup>rd</sup> July 2012 in which she applied for inter alia to have the grant of letters of administration given to Leah Chelangat Tirop on 30<sup>th</sup> June 2004 and confirmed on 12<sup>th</sup> May 2005 revoked. Before the summons could be heard Alice passed away. She was however substituted by Joel Kiprono Kering, hereinafter referred to as the Applicant. Leah Chelangat Tirop the Petitioner/Respondent did not file any response to the summons. When the summons came up for hearing, this court gave directions to have the summons disposed of by affidavit evidence and written submissions. Again, the Applicant is the only party who filed his submissions while Mr. Kirui, the Petitioner's learned advocate failed to file his despite undertaking to do so.

I have considered grounds set out on the face of the summons and the facts deponed in the supporting affidavit. I have further taken into account the Applicant's written submissions. The Applicant averred that the Petitioner intentionally failed to disclose the following assets belonging to the Estate:

- i. Kericho/Kipchorian/Lelu/Block 7 (Chepkechei)/24
- ii. Kericho/Kipchorian/Lelu/Block 7 (Chepkechei)/613
- iii. Kericho/Kiptugumo/255
- iv. Kericho/Kiptugumo/234
- v. Kericho/Kiptugumo/308
- vi. Kericho/Kapsoit/1015

It is also deponed that the Petitioner has sold the following properties without consulting the other family members:

1. Kericho/Kipchorian/Lelu/Block 7 (Chepkechei)/24
2. Kericho/Kipchorian/Lelu/Block 7 (Chepkechei)/613

The Applicant has beseeched this court to revoke the titles issued to Alfred Kiprob Keter. This later request is not available for two reasons:

First, the alleged purchaser i.e. Alfred Kiprob Keter has not been served nor enjoined to these proceedings. Secondly, the purchaser's title is protected under Section 93 (2) of the Law of Succession Act. The Applicant has further complained that the Petitioner did not disclose to this court members of the 2<sup>nd</sup> house namely:

- |                              |   |          |   |         |
|------------------------------|---|----------|---|---------|
| a. Alice Chepkoskei Tirop    | - | Widow    |   |         |
| b. Samuel Kimutai Mursi      | - | Son      | - | Adult   |
| c. Sally Chepkemai Kirui     | - | Daughter | - | married |
| d. Joel Kiprono Kering       | - | Son      | - | Adult   |
| e. Nancy Chepkirui           | - | Daughter | - | Single  |
| f. Joyce Chelangat Ksokei    | - | Daughter | - | Married |
| g. Charles Cheruiyot Rotich  | - | Son      | - | Adult   |
| h. Festo Kiplangat Rotich    | - | Son      | - | Adult   |
| i. Patrick Kipngetich Rotich | - | Son      | - | Adult   |

The serious accusations made by the Applicant have not been countered nor controverted. In fact it is tersely admitted by Mr. Kirui, that the Petitioner did not include in the Petition all assets of the Estate. The second allegation is that the members of the second house were excluded from sharing the Estate. Those allegations are very serious and needed a response from the Petitioner. In short, the Petitioner obtained the grant by concealing material facts. I find the summons for revocation of grant to be well founded. Consequently, the grant of letters of administration made to Leah Chelangat Tirop on 30<sup>th</sup> June 2004 and confirmed on 12<sup>th</sup> May 2005 is hereby ordered revoked. Since the dispute involves members of the family members I order that each meets his or her own costs.

**Dated, signed and delivered in open court at Kericho this 16<sup>th</sup> day of May 2014**

**J. K. SERGON**

**JUDGE**

**In the presence of:**

**- Applicant: present in person**

**- N/A for Kirui for Petitioner.**