



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**SUCCESSION CAUSE NO. 92 OF 2009**

**IN THE MATTER OF THE ESTATE OF THE LATE TAPKURGOI W/O ARAP SANG (DECEASED)**

**KIPRONO CHEPKWONY.....PETITIONER**

**VERSUS**

**PAUL KIPTOO SANG.....OBJECTOR**

**RULING**

On 10th March 2010, a grant of letters of administration intestate in respect of the estate of **Tapkurgoi w/o Sang**, deceased was made to **Kiprono Chepkwony**, hereinafter referred to as the Petitioner. When **Paul Kiptoo Arap Sang**, hereinafter referred to as the Objector learnt of this development, he applied for the aforesaid grant to be revoked and or annulled vide the Summon for Revocation of Grant dated 31st March 2010.

When the summons came up for interpartes hearing, this court gave directions to have the same disposed of by oral evidence. Paul Kiptoo Sang testified alone in support of the application for revocation of grant. He told this court that he was the father of Kiprono Chepkwony, the Petitioner and that the deceased was his sister-in-law having been married by his elder brother, Arap Soimo. He stated that when his brother passed on, he inherited his widow, the late Tapkurgoi w/o Chepkwony. Their cohabitation was blessed with three children. The Objector claimed also that Kiprono Chepkwony, the Objector, was the offspring of his relationship with the deceased. The Objector accused the Petitioner of failing to disclose that the Objector has been in occupation of 1 ½ acres in **L.R.no.Kericho/Kabianga/896**, a parcel of land registered in the name of the deceased since 1953. He accused the Petitioner of material non-disclosure. For the above reason, he asked this court to order the grant to be revoked. He went ahead to claim that the aforementioned land originally belonged to his late father who passed away before distributing the land.

The Petitioner vehemently opposed the application by filing a replying affidavit. The Petitioner, like the Objector testified alone in support of his position. He alleged that the Objector has no claim over the land since he was given his parcel known as **L.R.no.Kericho/Kiptere/1304**. The Petitioner said that the Objector forcefully entered the land in dispute and put up a house.

After a careful consideration of the material placed before this court plus the evidence tendered, it is clear in my mind that the dispute is basically over the inheritance of the parcel of land known as **L.R.no.Kericho/Kiptere/896**. The aforesaid parcel of land is registered in the name of the deceased. It is also not in dispute that the Petitioner is the son of the deceased. He has obtained a temporary grant of letters of administration. The Petitioner is yet to apply for the grant to be confirmed. The question is: Whether the Objector is justified to have the grant revoked? The basis of the Objector's application is that the Petitioner has failed to take into account his interest over **L.R.no.Kericho/Kabianga/896**. I do not think it is wise to revoke the temporary grant. The Petitioner is perfectly right to apply for a grant to administer the estate of his late mother. The Objector's claim can be lodged when the cause comes up for confirmation. I see no merit in the application. It is dismissed with no order as to costs. The Petitioner is at liberty to apply for the grant to be confirmed. I direct the Petitioner to ensure that the Objector is served with the summons for confirmation of grant so that he may present his claim when the same comes up for determination.

**Dated, signed and delivered in open court this 20th day of June, 2014.**

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**J.K.SERGON**

**JUDGE**

**In the presence of**

Petitioner present in person

Mr. Mutai for Objector