



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

**Succession Cause 250 of 2005**

**Estate of RAPHAEL CHERUIYOT ROTICH . . . . .DECEASED**

**And**

**JULIANA CHERONO ROTICH . . . . . }PETITONERS**

**PRISCIALLA CHEPKEMOI ROTICH . . . . . }**

**RULING**

**I: Procedure**

1. Raphael Cheruiyot Rotich, a male adult aged 56 years old as at 14<sup>th</sup> February, 2005, passed away. He was married to two women Juliana Cheronon Rotich aged 51 years in 2005 and Priscila Chepkemoi Rotich aged 47 years old in 2005.
2. Both the widows applied for letters of grant intestate on 22<sup>nd</sup> December, 2005 in this one file to their late husband's estate. Both the widows had adult and minor children whose interest required to be taken into account. Letters of grant was issued on 9<sup>th</sup> February, 2006.
3. On 10<sup>th</sup> February, 2006, they filed a notice appointing the firm of C.K. Korir to act for them. An urgent application followed dated 10<sup>th</sup> February, 2006 seeking leave to withdraw a sum of Kshs. 384,460/= from the bank account of the estate of the deceased. This application came before Kimaru J who directed that apportion of the sum be divided and distributed. This was so, as of 13<sup>th</sup> February, 2006 there was another application that there was a sickly child. A further application to confirm the grant before the six (6) months was up was also prayed for in the same application.
4. The two widows it seems in their impatience stormed the judge's chambers who rightly disqualified himself from hearing the matter (*Kimaru J*).
5. The Deputy Registrar referred the petitioners to Nakuru when it came before Musinga J then Koome J. a sum of Kshs. 384,460/= was authorized and released to the parties (*Koome J*)

**II: Application 26<sup>th</sup> February, 2009**

6. The applicants now prays that the estate of the deceased having been equally distributed between the two houses be accordingly confirmed.



f) Mary Chelangat Rotich 25 years Kshs. 20,000/=

g) Priscila Chepkemoi Rotich Kshs. 50,000/=

**570,000/=**

=====

10. These figures and ages was as of the year 2006. To add 3 years to the ages of the minor. I find that

**From the 1<sup>st</sup> house.**

Aron Kibet is still a minor

**From the 2<sup>nd</sup> house**

Benard Kipyegon and Denis Kimutai are still minors.

11. It is therefore imperative that the interest of the minors be looked into. This is where the sum of moneys due to them must be kept in an interest earning account until they attain the age of majority. To this end I hereby order that a sum of Kshs. 200,000/= for Aron Kibet as agreed by the family and Denis Kimutai Kshs. 140,000/= be deposited in an interest earning account i.e. House No. 1 Kshs. 200,000/=

From House No. 2 Kshs. 280,000/=.

The balance of the sum due is released to the estate being

House No. 1 177,770/=

House No. 2 97,770/=

12. That the sum of moneys be deposited with the Barclays bank of Kenya at Kericho in an interest earning fixed deposit account in the name of the deputy registrar of the High Court of Kenya at Kericho and the two administratrix being a total sum of 480,000/=.

13. That the administratrix may have leave to apply to access the interest only on this sum by which the same is to be used for the upkeep of the minors. That the principal sum of 480,000/= is not to be touched until the minors attain the age of majority being 18 years respectively

(Aron Kibet, 200,000/=)

(Benard Kipyegon 140,000/=)

(Denis Kimutai 140,000/=)

14. I accordingly confirm the grant to include the above items.

15. The assets are shared equally amongst the two houses and will be held in trust by each widow and a son Charles Kipkorir Cheruiyot in the first house and a widow and son, Gilbert Kiprono Cheruiyot in the second house as chosen by the respective parties.

16. The costs will be in the estate

**DATED** this 19<sup>th</sup> day of May, 2009 at **KERICHO**

**M.A. ANG'AWA**

**JUDGE**

**Advocates**

C.K. Korir advocate instructed by the firm of M/S Korir & Co. advocates for the Petitioner/applicant – present