



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

**Succession Cause 184 of 2007**

1. Family Law
2. Law of Succession
  - i. Application 25<sup>th</sup> March, 2009 for confirmation of grant of letters administration.
  - ii. Male adult aged 51 years old
  - iii. Died on 17<sup>th</sup> July, 1999 at Tenwek Hospital
  - iv. Cause of death - Pneumonia
  - v. Two houses
  - vi. Letters of grant issued 20<sup>th</sup> February, 2008 (Kooome J)
  - vii. Kenya Gazette 22<sup>nd</sup> June, 2007
  - viii. P&A 30 form now filed after P&A **rule 41(3)** complied by orders of Court of 14<sup>th</sup> July, 2009.
3. Application for confirmation of grant after compliance
4. **Held** – Application grant.
  - i) The estate to be held by two surviving widows in trust of the children and having life interest.
  - ii) No sale of property unless leave is sort of Court under the Trustees Act.
  - iii) Grant confirmed.
4. **Case Law** -
5. **Advocate**

J.J. Onyango advocate from M/S Jamsumbah Onyango & Co. advocate instructed to hold brief for M/S V.K. Bii & co. advocates for the Petitioners/Applicants – present.

**IN THE MATTER OF THE ESTATE OF THE LATE**

JACKSON KIPROTICH TERER .....DECEASED

AND

LIZA CHEPNGENO TERER .....1<sup>ST</sup> PETITIONER

EMMY CHEPKORIR TERER .....2<sup>ND</sup> PETITIONER

**RULING**

**NO.2**

*Application for confirmation of grant*

*Dated 25<sup>th</sup> March, 2009*

**I: Delay**

1. When this matter came up for confirmation of grant of letters of administration intestate, the court in its ruling of 14<sup>th</sup> July, 2009 requested the advocate/applicant under P&A 41(3) rules to comply with the mandatory requirement to ensure that form P&A 30 from the Principal registry is filed.
2. This has since been done and the application to confirm grant is sort.

## **II: Background**

3. Jackson Kiprotich Terer (*deceased*) died on the 17<sup>th</sup> July, 1999 aged 51 years old. The cause of death was Pneumonia. He passed away at Tenwek Hospital.
4. The deceased is survived by two widows.
  - i) Liza Chepngeno Terer aged 49 years old who has five children, two adult sons, two adult daughters and a minor son aged 15 years old.
  - ii) Emmy Chepkorir Terer aged 31 years old has two minor sons aged 13 and 11 years old respectively.
5. The only assets the deceased had was land parcel Kericho/Chemoiben/1834 measuring 3.54 hectares.
6. It was agreed that the said property be registered in the names of the two widows.

## **III: Held**

7. According to **Section 40** of the Law of Succession, the estate should be divided equally amongst the children. As there are minors involved whose interest require to be taken into account by the two administratrix as beneficiary, this court would find that the two widows do have a life interest in the said property Kericho/Chomoiben/1834 and that they hold the property in trust of the children including the married daughters.
8. There is to be no sale of the property whatsoever without leave of the court under the **Trustees Act Cap 167** Laws of Kenya.
9. I accordingly confirm the grant.

## **In summary**

- 9.1. Kericho/Chemoiben/1834 measuring 3.54 Hectares to be registered in the names of
  - i) LIZA CHEPNGENO TERER widow aged 49 years old.
  - i) EMMY CHEPKORIR TERER widow aged 31 years old.  
Having a life interest and in trust of the seven children including the married daughters.
  - ii) No sale of property assets to be made unless compliance under the **Trustees Act Cap 167** is sort.
10. Costs in the estate.

**DATED** this 31<sup>st</sup> day of July, 2009 at **KERICHO**

**M.A. ANG'AWA**

**JUDGE**

## **Advocate**

J.J. Onyango advocate from M/S Jamsumbah Onyango & Co. advocate instructed to hold brief for M/S V.K. Bii & co. advocates for the Petitioners/Applicants – present.