



REPUBLIC OF KENYA



**In re Estate of Mathew Kiptonui Soi (Deceased) (Succession Cause  
56 of 2010) [2025] KEHC 2775 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2775 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 56 OF 2010  
JK SERGON, J  
MARCH 13, 2025**

**IN THE MATTER OF THE ESTATE OF MATHEW KIPTONUI SOI (DECEASED)**

**BETWEEN**

**MARIA CHEPTONUI ..... 1<sup>ST</sup> APPLICANT**

**SAIDA CHEPCHUMBA ..... 2<sup>ND</sup> APPLICANT**

**AND**

**STEVEN KIPRONO TONUI ..... 1<sup>ST</sup> RESPONDENT**

**LORNA CHELANGAT MARINDANY ..... 2<sup>ND</sup> RESPONDENT**

**EVERSEASONS LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**KIPKOECH C CHERUIYOT ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. The application coming up for determination is an amended chamber summons dated 25th June, 2020 seeking the following orders;
  - (i) That the court be pleased to declare the subdivision of land parcel Kericho/Roret/620 and subsequent transfers of all the resultant parcel and titles thereto being Kericho/Roret/1876,1877,1974, 1975, 1976 & 1977 declared irregular, null and void
  - (ii) That the court be pleased to order restoration of the register and original title to land Kericho/Roret/620 in the name of Kiptonui A. Soi the deceased herein.
  - (iii) That this court be pleased to distribute the estate of the deceased herein and accordingly rectify the terms of the certificate of confirmation of grant issued on 16th September, 2013 and/or issue any such order as the court may deem fit and expedient.



- (iv) That the costs of this application be provided for.
2. The application is based on grounds on the face of it and the supporting affidavit sworn by Maria Cheptonui the 1st applicant and on behalf of the 2nd applicant who are beneficiaries of the estate of the deceased seeking to have the 3rd and 4th respondents/purchasers' acquisition and registration of the resultant titles in respect to Kericho/Roret/620 declared irregular, null and void.
  3. Stephen Kiprono Tonui the 1st respondent/petitioner filed a replying affidavit in response to the application.
  4. He avers that the grant in this matter was confirmed and a certificate of confirmation of grant issued on 16.9.2013 and the widows of the deceased, Recho Soi (now deceased) and the 2nd respondent were given confirmed as administrators of the estate and given properties no Kericho/Roret/620 and Nairobi Block 61/432 for their benefit to hold in trust for the other beneficiaries.
  5. He avers that it is true that Kericho/Roret/620 was subdivided by the administrators and the resultant subdivisions sold to the 3rd and 4th respondents.
  6. He avers that title no. Kericho/Roret/1974 measuring 16.442 is still jointly registered in the names of Recho Soi (now deceased) and the 2nd respondent herein.
  7. He avers sale of land parcels no. 1877, 1975, 1976 and 1977 was necessary to generate funds for the upkeep of the widows and applicants were minors of school going age, renovate house situated in Nairobi and purchase some land for the 2nd respondent in which she established her home
  8. He avers that the sale of the aforementioned parcels and utilisation of the proceeds was done with the consent of all the family members.
  9. He avers that the administrators of the estate disposed of the said properties and that the same was in the interest of the estate of the deceased.
  10. He avers that this court lacks jurisdiction to grant orders for cancellation of title no. 1877, 1974, 1975, 1976 and 1977 and that the Environment and Land Court is vested with the jurisdiction to hear and determine disputes relating to ownership and use of land and consequently, proceeded to file a preliminary objection dated 23rd July, 2020.
  11. He avers that the provisions of the Law of Succession Act allows the surviving spouse a life interest on the whole of the residue of the net estate of an intestate and therefore the 2nd respondent being a surviving spouse of the deceased had a life interest of the estate of the deceased and the estate cannot be distributed to the children of the deceased unless she has remarries.
  12. This matter was referred for court annexed mediation and to a panel of elders through the alternative justice system and the area chief of Kabartegan Location, one Rugut Leonard filed a report with the proceedings and decision of the meeting held on 21.2.2024. The matter came up for inter partes hearing on 8.10.2024. The learned counsel for the applicants argued that the parties arrived at a partial settlement and therefore the matter should proceed for hearing. The learned counsel for the 1st respondent stated that his client was in agreement with the contents of the report and that this court should adopt the findings thereon and mark the matter as settled. The learned counsel for the 3rd and 4th respondent stated that there was no contest on their part.
  13. On 3.12.2024 the matter came up for further directions the learned counsel for the applicant sought leave of the court to file an application to set aside the mediation settlement agreement whereas the



learned counsel for the other parties were in concurrence with the findings of the report by the area chief and the mediation settlement agreement.

14. This court has considered the report filed by the area chief, whereby the parties did not agree on distribution of the remaining share of the estate of the deceased and the contents of the partial mediation settlement agreement arrived at by the parties at the end of the court annexed mediation proceedings whereby the the parties agreed that the titles deeds issued to the 3rd and 4th respondents/ purchasers should not be cancelled as due diligence was followed in effecting the sale, however, parties could not agree on the distribution of the remaining estate.
15. This court hereby adopts the finding of the report by the area chief and the partial mediation agreement is as far as the parties agree that titles to the 3rd and 4th respondent/ purchasers should not be cancelled.
16. It is, however, the finding of this court that the sole issue for pending determination between the parties is the distribution of the remaining portions of the estate. This court having issued a certificate of confirmation of grant on 16.9.2013 in respect to the estate of the deceased whereby the widows of the deceased, Recho Soi (now deceased) and Lorna Chelangat Marindany the 2nd respondent herein were given confirmed as administrators of the estate and given properties no Kericho/Roret/620 and Nairobi Block 61/432 for their benefit to hold in trust for the other beneficiaries this court is therefore functus officio on matters distribution of the estate of the deceased and in any event Lorna Chelangat Marindany the 2nd respondent as a surviving widow of the deceased retains a life interest in the estate of the deceased which terminates upon death or remarriage.
17. Consequently, the amended chambers summons dated 25th June, 2020 is without merit, it is dismissed with each party bearing their own costs.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 13TH DAY OF MARCH, 2025.**

.....  
**J.K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Miss Koech for the Applicant

Okok for 3<sup>rd</sup> & 4<sup>th</sup> Respondent

