



In re Estate of Samson cheruiyot Kiget alias Cheruiyot Kiget (Deceased) (Succession Cause E008 of 2021) [2025] KEHC 2774 (KLR) (13 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2774 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE E008 OF 2021
JK SERGON, J
MARCH 13, 2025**

BETWEEN

ANNA CHEPKIRUI KIGET PETITIONER

AND

TERER CHEPCHIRCHIR ROSE 1ST PROTESTOR

MONICA CHEPKEMOI CHERUIYOT' 2ND PROTESTOR

RULING

1. The application coming up for determination is the chamber summons dated 29th March, 2022 seeking the following orders;
 - (i) Spent.
 - (ii) Spent.
 - (iii) That the grant of letters of administration made to Anna Chepkurui Kiget on 12th May, 2021 and confirmed on 14th March, 2022 be revoked and/or annulled.
 - (iv) That court gives directions that deem fit to grant; and
 - (v) That the costs of this application be provided for.
2. The application is based on the grounds on the face of it and the supporting affidavit of Terer Chepchirchir Rose and Monica Chepkemoi Cheruiyot the protestors herein.
3. The 1st Protestor is the wife of the late Reuben Kiprono Cheruiyot who is the one of the sons of the deceased and the said Reuben Cheruiyot passed away on 9th September, 2015 leaving the 1st Protestor and their children surviving him.



4. The 2nd Protestor is the wife of the late David Kipkirui Cheruiyot who is the one of the sons of the deceased and the said David Kipkirui Cheruiyot passed away on 11th October, 2001 leaving the 2nd Protestor and their children surviving him.
5. They aver that the petitioner applied for grant of letters of administration which were made to her on 12th May, 2021 and confirmed on 14th March, 2022 to the effect that the property of the deceased absolutely belongs to the petitioner.
6. They aver that the said petition was filed secretly as it lacked the consent of all the beneficiaries of the estate of the deceased.
7. They aver that upon perusing the court file, they noted that the grant was obtained pursuant to proceedings which were defective in substance and were not accompanied by the chief's letter.
8. They aver that the grant was obtained fraudulently by means of untrue allegation of fact as the petitioner failed to disclose to the court all the properties forming the estate of the deceased including shares and money held at Ndege Chai Sacco.
9. They aver that the petitioner failed to disclose to the court that the deceased was survived by two wives, the petitioner and one Ruth Kiget who has 3 sons and 4 daughters.
10. They aver that the grant was applied for and confirmed with the exclusion of other beneficiaries of the estate of the deceased, the protestors included.
11. The protestors were apprehensive that the petitioner would have the property of the deceased transferred and absolutely registered in her name to the detriment of the excluded beneficiaries who were not in good terms with the petitioner.
12. They therefore urged this court to revoke the certificate of grant made on 12th May, 2021 and confirmed on 14th March, 2022.
13. Anna Chepkurui Kiget the petitioner herein filed a replying affidavit in response to the application.
14. She avers that the applicants are her daughter in laws who had been settled and that she had not made any attempts to disinherit them.
15. She avers that in the early 1930's she got married to her late husband (the deceased herein) and that they established their matrimonial home in Mosonik her husband's ancestral land.
16. She avers that during these years, she was a staunch member of the AIC church and that she would walk from her matrimonial home to the said church, which was far away.
17. She avers that in 1949, one church elder named Isaiah Arap Sang saw her devotion to the church and the distance that she was travelling in order to attend the church service and gifted her land parcel Kericho/ Kapsait/68 which was not registered and in the same year, she moved into that land parcel with her husband and they started their home.
18. She avers that since the culture and law at the time made it difficult for a woman to own land, during the adjudication process, based on mutual consent, her husband was registered as the owner of that property.
19. She avers that in the lifetime of her deceased husband, he knew and acknowledged her ownership in that parcel.



20. She avers that prior to the demise of her husband (the deceased herein), he shared his properties to all his children.
21. She therefore urged this court to dismiss the protestor's application with cost.
22. This court finds that the sole issue for determination is whether to revoke and/or annul the grant of letters of administration made to Anna Chepkurui Kiget on 12th May, 2021 confirmed on 14th March, 2022.
23. On the issue as to whether to revoke and/or annul the grant of letters of administration made to Anna Chepkurui Kiget on 12th May, 2021 confirmed on 14th March, 2022. On one part, the applicants contended that the petitioner/respondent secretly and without the consent of other beneficiaries applied for grant of letters of administration which were made to her on 12th May, 2021 and confirmed on 14th March, 2022 to the effect that the property of the deceased absolutely belongs to the petitioner. The applicants were therefore apprehensive that the petitioner/respondent would have the property of the deceased transferred and absolutely registered in her name to the detriment of the excluded beneficiaries.
24. On the other part, the petitioner/respondent applicants are her daughter in laws who had been settled by the deceased prior to his demise and that she had not made any attempts to disinherit them.
25. This court, having considered the depositions by the parties, finds that the applicants have not aptly demonstrated any of the grounds for revocation and/or annulment of grant as set out in section 76 of the *Law of Succession Act*. In the case of *Albert Imbuga Kisigwa v Recho Kawai Kisigwa*, Succession Cause No 158 of 2000 the court held that;

“Power to revoke a grant is discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrongdoing for the court to invoke section 76 and order to revoke or annul a grant. And when a court is called upon to exercise this discretion, it must take into account interests of the beneficiaries entitled to the deceased's estate and ensure that the action taken will be for the interests of justice.” And in any event the petitioner/respondent being a surviving widow, she is entitled to life interest over the matrimonial home, being Kericho/Kapsoit/68. Section 35 of the *Law of Succession Act* caters for a situation where the deceased is survived by a spouse and children.

26. The surviving spouse is entitled to the deceased's chattels and a life interest on the net residue of the deceased's property which terminates on death or remarriage. Under section 35 of Act, upon the determination of a life interest the estate should be shared equally between all the children.
27. Consequently, the chamber summons dated 29th March, 2022 is hereby 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:-

Rutoh



No Appearance

