



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Kiprotich Tuigong (Deceased) (Succession Cause  
53 of 1996) [2025] KEHC 4724 (KLR) (11 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4724 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 53 OF 1996  
RN NYAKUNDI, J  
APRIL 11, 2025**

**IN THE MATTER OF THE ESTATE OF KIPROTICH TUIGONG (DECEASED)**

**BETWEEN**

**THOMAS KIPKEMBOI ROTICH ..... PETITIONER**

**AND**

**PETER KIPKORIR ROTICH ..... OBJECTOR**

**RULING**

1. The intestate estate of the deceased herein was confirmed on 19<sup>th</sup> October, 2023 where the court decreed that the property of the estate, and in particular the parcel of land No. Nandi/Kiminda/887 be shared equally among all the beneficiaries. The administrators acting on those orders proceeded to have the land subdivided and as a result a mutation was done, parcels numbers issued and registered at the Land registry.
2. The Objector then approached this court vide an application dated 4<sup>th</sup> June, 2024 in which he sought that he be given a portion of land where his mother was buried. As per the mutation resulting from the aforesaid subdivision, the objector's mother was buried on the parcel of land Nandi/Kiminda/3730 which was given to one John Kiprugut Rotich whereas the objector, Peter Kipkorir Rotich was given the parcel of land No. Nandi/Kiminda/3722.
3. The application was strenuously defended, the petitioner stating that the application is frivolous and lacks merit. However, it is evident from the record that the parties attempted to settle the matter since the Petitioner filed an affidavit sworn on 8<sup>th</sup> April, 2025 in which he deposed that:
  - a. That I have considered the Objector's affidavit dated 3<sup>rd</sup> April, 2025 and my affidavit dated 3<sup>rd</sup> April, 2025 and with to further swear this affidavit on the specific parcels of land to be affected in order for Peter Kipkorir Rotich to get a portion of land where his mother buried as requested.



- b. That the parcels of land No. Nandi/Kiminda/3722 which was given to Peter Korir Rotich and Nandi/ Kiminda/3730 given to John Kiprugut Rotich are to be subdivided further in order to have Peter Kipkorir Rotich to have a portion of land where his mother was buried.
- c. That we pray that the court issues the following order to enable my co-administrator and myself finalize on the transmission of the property of the estate of Kiprotich Tuigong (deceased) to the respective beneficiaries: -
  - i. An order be issued that the parcel of Land No. Nandi/Kiminda/3722 and Nandi/ Kiminda 3730 be subdivided.
  - ii. That 0.1 acres be part of the parcel of land No. Nandi/Kiminda/3722 be given to John Kiprugut Rotich.
  - iii. That 0.1 acres' part of the parcel of land No. Nandi/Kiminda/3730 be given to Peter Kipkorir Rotich.
- d. That the Objector and other beneficiaries will not be prejudiced in any way if the orders granted as prayed.

### **Decision**

- 4. Having considered the record and in view of the recent developments in the character and nature of the suit, the main issue raised by the Objector is that he needs the requisite parcel where his mother was buried which has cultural and emotional significance.
- 5. The Petitioner and the affected beneficiary (John Kiprugut Rotich) have demonstrated willingness to accommodate the Objector's request through a compromise solution as per the aforementioned orders. I could not agree more. This arrangement would not disturb the overall distribution scheme of the estate, respects both legal and cultural considerations pertaining to burial sites, and no other beneficiaries have raised objections to the proposed arrangement.
- 6. In light of the above, the court hereby orders as follows:
  - i. An order be issued that the parcel of Land No. Nandi/Kiminda/3722 and Nandi/Kiminda 3730 be subdivided.
  - ii. That 0.1 acres be part of the parcel of land No. Nandi/Kiminda/3722 be given to John Kiprugut Rotich.
  - iii. That 0.1 acres' part of the parcel of land No. Nandi/Kiminda/3730 be given to Peter Kipkorir Rotich.
  - iv. That the administrators of the estate shall facilitate the execution of this order and ensure proper registration the parcels at the Land Registry.
- 7. It is so ordered.

**DATED AND SIGNED AT ELDORET THIS 11<sup>TH</sup> DAY OF APRIL, 2025**

.....  
**R. NYAKUNDI**  
**JUDGE**

