



In re Estate of John Kipkemoi arap Laboso (Deceased) (Succession Cause 161 of 2008) [2025] KEHC 4760 (KLR) (8 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4760 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 161 OF 2008**

JK SERGON, J

APRIL 8, 2025

IN THE MATTER OF THE ESTATE OF JOHN KIPKEMOI ARAP LABOSO (DECEASED)

BETWEEN

WESLEY KIPLANGAT KIRUI APPLICANT

AND

KENNETH CHERUIYOT RESPONDENT

RULING

1. The applicant filed a notice of motion dated 14th October, 2024 seeking the following orders;
 - (i) Spent.
 - (ii) That, this honorable court may be pleased to direct the Deputy Registrar to execute the transfer documents over and in respect to LR Kericho/Kimulot/304 to facilitate the subdivision, transfer and registration of the resultant parcel to and or in favor of the beneficiaries in terms of Certificate of Confirmation of Grant issued on 30th May 2023.
 - (iii) That, this honorable court may be pleased to grant such further orders as may be just and/or expedient to enable the lawful heirs of the deceased herein, to benefit from the orders of this honorable court and the resultant certificate of grant issued on 30th May 2023.
 - (iv) That, the costs of the application be provided for.
2. The application is supported by grounds on the face of it and the supporting affidavit of Wesley Kiplangat Kirui the applicant herein
3. The applicant avers that on the 23rd November, 2023 the Honorable Court directed the County Surveyor to conduct the survey process vis a vis the parcel known as Kericho/Kimulot 304 in favour of the beneficiaries of the estate of the estate of the late John Kipkemoi Arap Laboso (Deceased)



4. He avers that, the surveyor conducted the survey process and produced the mutation form which the beneficiaries were to sign accordingly.
5. He avers that he and the other beneficiaries of the estate of the late John Kipkemoi Arap Laboso (Deceased) signed the mutation form in accordance with the confirmed grant and that the Respondent herein is yet to sign the mutation forms which has put the completion of the succession process on ice. He therefore avers that without the Deputy Registrar signing the completion documents, the succession process cannot be concluded, denying the beneficiaries of the estate of the late John Kipkemoi Arap Laboso (Deceased) the long awaited fruits of the succession process.
6. Kenneth Cheruiyot the respondent filed a replying affidavit in response to the instant application.
7. The respondent avers that the Petitioner is intent on executing the Certificate of confirmation of grant partially/in piecemeal with a total disregard to the land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) and that he did not know the geographical location of the land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) and the applicant wishes to take advantage of the same and leave it in abeyance so that they can continue with its exclusive use and possession.
8. He avers that the Applicant is intent on subdividing and partitioning only one land parcel which is Kericho/Kimulot/304 and leaving out the land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) in the implementation of the Certificate of confirmed grant and therefore the Honourable Court should not entertain such mischief.
9. He avers that the sole aim and purpose of the present application is to disinherit him and to deny him a fair share in the estate herein since he is in occupation of the land parcel Kericho/Kimulot/304 whereas the Applicant is occupation of land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) which has been left undistributed.
10. He avers that this Court should reign upon the mischievous conduct of the Applicant and determine that the estate properties should be distributed concurrently as per the confirmed grant and that the terms of the Mediation Settlement Agreement should be adhered to.
11. The matter came up for inter partes hearing and the applicant who was present in person reiterated that he was seeking to have the instant application allowed, whereas, the respondent who was present in person, countered that he was opposing the application seeking to have the Deputy Registrar sign transfer of mutation documents in his stead.
12. Having considered the instant application, response and oral submissions by the parties, this court finds that the sole issue for determination is whether to direct the Deputy Registrar to execute the transfer documents over and in respect to LR Kericho/Kimulot/304 to facilitate the subdivision, transfer and registration of the resultant parcel to and or in favor of the beneficiaries in terms of Certificate of Confirmation of Grant issued on 30th May 2023.
13. On one part, the applicant argued that he and the other beneficiaries of the estate of the late John Kipkemoi Arap Laboso (Deceased) signed the mutation form in accordance with the confirmed grant whereas the Respondent is yet to sign the mutation forms which has put the completion of the succession process on ice. The applicant is adamant that without the Deputy Registrar signing the completion documents, the succession process cannot be concluded, denying the beneficiaries of the estate of the late John Kipkemoi Arap Laboso (Deceased) the long awaited fruits of the succession process. On the other part, the respondent argued that the applicant was intent on executing the Certificate of confirmation of grant partially/in piecemeal with a total disregard to the land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot).



14. This court has considered the arguments by the parties and finds that the assertion by the respondent that the applicant was intent on executing the Certificate of confirmation of grant partially/in piecemeal with a total disregard to the land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) baseless. This court has considered the record and more so the Certificate of confirmation of grant dated 30th May, 2023 and it is evidently clear that land parcel Kericho/londiani/Kedowa/Block 2 (Tegunot) which forms part of the estate of the deceased is listed on schedule of properties that ought to be distributed to the beneficiaries of the late John Kipkemoi Arap Laboso (Deceased)
15. Consequently, the Application dated 14th October, 2024 is allowed. Therefore, the Deputy Registrar of this Court is authorized to execute the transfer documents over and in respect to LR Kericho/ Kimulot/304 to facilitate the subdivision, transfer and registration of the resultant parcels to and/or in favor of the beneficiaries in order to give effect to the rectified Certificate of Confirmation of Grant dated 30th May, 2023. There will be no order as to costs of the applications.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 8TH DAY OF APRIL 2025.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

No Appearance

