



REPUBLIC OF KENYA



In re Estate of the Late Kipsoi arap Chepkwony (Deceased) (Succession Cause 67 of 2004) [2025] KEHC 5741 (KLR) (8 May 2025) (Ruling)

Neutral citation: [2025] KEHC 5741 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 67 OF 2004
JK SERGON, J
MAY 8, 2025
IN THE MATTER OF THE ESTATE OF THE
LATE KIPSOI ARAP CHEPKWONY (DECEASED)**

**IN THE MATTER OF
JOSHUA CHERUIYOT SOI PETITIONER**

RULING

1. The application coming up for determination is a chamber summons dated 5th March, 2025 seeking the following orders;
 - (i) Spent.
 - (ii) That the Registrar of Lands, Bomet County be directed to cancel all entries made on 15.09.2004 in the register of parcel KERICHO/MOGOGOSIEK/746 resulting into Kericho/Mogogosiek/1833,Kericho/Mogogosiek/1834,KERICHO/MOGOGOSIEK/1835,KERICHO/MOGOGOSIEK/1836,KERICHO/MOGOGOSIEK/1837andKERICHO/MOGOGOSIEK/1838 pursuant to the use grant of letters of administration issued on 17/06/2004 or any other entries made thereafter as a consequence thereafter.
 - (iii) That the suit property Kericho/Mogogosiek/746 does remain in the name of the, Kipsoi Arap Chepkwony (deceased).
 - (iv) That the land parcel Kericho/Mogogosiek/746 be distributed as per the Confirmation of grant dated 4th December 2024.
 - (v) That costs of this application be provided.
2. The application is supported by the grounds on the face of it and the supporting affidavit of Joshua Cheruiyot Soi the applicant herein.



3. He avers that he is the Petitioner herein having applied for grant of letters of administration that was issued on 17th June 2004 and that the Certificate of Confirmation of the said Grant Confirmed by this Honourable court on 4th December 2024.
4. He avers that upon confirmation of the Certificate of grant, he visited the Land Registry, Bomet with the aim of implementation of Grant and was informed that the parcel Kericho/MOGOGOSIEK/746 had been closed on subdivision and new titles had issued resulting to Kericho Mogogosiek/1833 to KERICHO/MOGOGOSIEK/1838, he attached a copy of the green card.
5. He avers that the temporary grant of Letters of Administration issued to him was used in the distribution of the estate and he was aware that the same cannot be used to distribute the parcel.
6. He avers that the said titles were illegally acquired and that the sub-division was irregularly done without a Confirmed grant since the registered owner was deceased and he was the administrator.
7. He avers that the said entries were done on after he had acquired the Letters of Administration which was irregularly used by the Registrar of Lands, Bomet and entries entered on 15.09.2004 were irregularly entered without a confirmed grant.
8. HE avers that it is important that the Titles be revoked and that the parcel be returned to the original parcel Kericho/mogogosiek/746 and be registered in the name of the KIPSOI ARAP Chepkwony (deceased) who is the original registered owner.
9. He avers that this Honourable Court has jurisdiction to order the cancellation of Titles and to order that orders be made in compliance with the Certificate of Grant and further that no party shall be prejudiced with the said orders as the same is in compliance with the certificate of grant dated 4th December 2024.
10. The matter came up for inter partes hearing, the learned counsel for the applicant urged this court to allow the application, Kericho/mogogosiek/746 does remain in the name of the, KIPSOI ARAP Chepkwony (Deceased) and the same be distributed as per the Kipsoi Arap Chepkwony (deceased) confirmation of grant dated 4th December, 2024.
11. I have considered the application which is unopposed and I find that the issue (s) for determination are whether to order the cancellation of titles and that the title revert in the name of KIPSOI ARAP Chepkwony (Deceased).
12. On the issue as to whether to order the cancellation of titles and have the title revert back in the name of the deceased, Section 47 of the [*Law of Succession Act*](#) and Rule 73 of the Probate and Administration Rules grants a succession court inherent powers to make such orders as may be necessary for the ends of justice or to prevent abuse of the court process. Such powers include cancellation of title deeds obtained through fraud or where there has been an abuse of the process of the court.
13. In the instant application, the applicant has sought for an order of cancellation of titles given that the subdivision and reparation over the subject property had been done irregularly and without a confirmed grant since the registered owner was deceased and he was the administrator. The power of the probate court to order for cancellation of titles was discussed in the case of [*Santuzza Bilioti alias Mei Santuzza \(Deceased\) v Giancarlo Falasconi*](#) (2014) eKLR where the court held that:- “...the succession court has powers to order a title deed to revert to the names of a deceased person. This in effect amounts to cancellation of the title deed. Further, a succession court can order a cancellation of a title deed if a deceased’s property is being fraudulently taken away by non-beneficiaries such as where the property is being sold before a grant is confirmed.”



14. Having considered all the foregoing, I am of the considered view that the applicant has before this court established the grounds in support of his application dated 5th March, 2025 which I hereby allow in the following terms:-

- (i) That titles for Kericho/Mogogosiek/1833, Kericho/MOGOGOSIEK/1834, KERICH0/MOGOGOSIEK/1835, KERICH0/MOGOGOSIEK/1836, KERICH0/MOGOGOSIEK/1837 and Kericho/Mogogosiek/1838 are hereby cancelled and ordered to revert back to the names of the deceased KIPSOI ARAP CHEPKWONY to pave way for distribution as per the terms of the confirmed grant dated 4th December, 2024.

DELIVERED, SIGNED AND DATED AT KERICH0 THIS 8TH DAY OF MAY, 2025

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J. K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

Malel for the Petitioner

