



REPUBLIC OF KENYA



**In re Estate of Kibowen Kipkemei (Deceased) (Succession Cause
73 of 2022) [2025] KEHC 5904 (KLR) (7 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5904 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 73 OF 2022**

E OMINDE, J

MAY 7, 2025

IN THE MATTER OF THE ESTATE OF KIBOWEN KIPKEMEI(DCD)

BETWEEN

JOSHUA KIBET BOWEN 1ST PETITIONER

KIPROP BOWEN 2ND PETITIONER

AND

JAMES KIPLIMO BOWEN 1ST RESPONDENT

EDWIN KIPSANG CHANGWONY 2ND RESPONDENT

RULING

1. At the last mention of 19th February 2025, I indicated to the parties that the proceedings of my colleague Judges who had handled this matter before I took it over had been typed as I had directed on 19th December 2024 and I was therefore now in a position to decipher the said proceedings and be able to appreciate what had transpired prior to the Application dated 19th June 2024 which was coming up for determination when I took over the matter on 25th September 2024.
2. Upon my perusal of the file, I noted that at the very initial stage, an Application dated 18th July 2022, between the 1st and 2nd Applicants/Petitioners (hereinafter referred to as the Applicants) and the 1st Respondent herein James Kiplimo Bowen, one Mathew Kipchirchir Kipsang and one David Chepkwony Kiyai was filed. Interim preservatory orders were issued in favor of the Applicants by the Hon Mr. Justice Reuben Nyakundi on 27th July 2022. This application is still pending hearing and determination inter parties.
3. Subsequently thereafter, several Applications touching on the same subject matter being two parcels of land to wit Land Reference No. Uasin Gishu/Ainabkoi West/1X5 and Miti Mingi/Mbaruk Block 3(Barut) 1XX3 seeking varying order have been filed by the same Applicants and against more or less



the same Respondents but with the 1st Respondent James Kiplimo Bowen being the main constant in all the subsequent applications as follows;

- a. An Application dated 31st July 2022 by the same Applicants against the 1st Respondent seeking an order for the cancellation of the Title Deed issued to the 1st Respondent with respect to the Land Reference No. Miti Mingi/Mbaruk Block 3(Barut) 1XX3. This Application has not been heard and there are also no interim orders in place.
 - b. An Application dated 27th November 2023 by the same Applicants against the 1st Respondent seeking orders for the setting aside and suspension of all actions and implementation, and the nullification and revocation of the grant issued on 11th July 2023 to the Petitioners in the matter of the Estate of the deceased herein. This Application is pending hearing and determination. Orders of Status Quo were issued on 29th November 2024 by the Hon Mr. Justice John Wananda.
 - c. An Application dated 19th June 2024 brought by the same Applicants against the 1st Respondent and one Edwin Kipsang Changwony seeking Preservatory orders with respect to Land Reference Number Uasin Gishu/ainabkoi West/1X5. This is the Application which the subject matter of today's Ruling. There are no interim orders in place.
 - d. The Application dated 9th January 2025 between the same Applicants and the 1st Respondent and one Edwin Kipsang Changwony seeking that the said Respondents be cited for contempt and committed to civil jail for defying the orders of status quo issued on 29th November 2024 by the Hon Mr. Justice Wananda
4. Having considered and addressed my mind to all these Applications as listed in a) - d) above, it is immediately apparent that all of them are offshoots of the initial Application filed on 18th July 2022 which is still pending hearing and determination inter-parties. All these applications are therefore inter-related and intertwined in the sense that all relate to the same Succession Cause, the same subject matter being Land Reference No. Uasin Gishu/ainabkoi West/1x5 And Miti Mingi/mbaruk Block 3(barut) 1XX3, the litigating parties are the same, and most importantly the Applicants in all the Applications are the same, with the Respondents too remaining more or less the same save for one addition here or there but with the 1st Respondent being the constant in all of them.
5. In my very well considered opinion, the justice of this case will not be met through the kind of piecemeal litigation that it is clearly apparent that all these applications are obviously morphing into. In this regard it will be pointless for the court to render itself exclusively on the Application dated 19th June 2024 when what I would loosely refer to as the “mother “of all these applications dated 18th July 2022 has not been heard and determined on its merits.
6. I am of the further opinion that the interest of justice and the need to ensure that the justice of the case is achieved, the matter should heard substantially and a comprehensive and well considered determination that has taken into account all the facts pertaining to the issue at hand be rendered so as to resolve all the issues raised in the initial and in the subsequent applications.
7. For this reason, I direct as follows;
- a. All the Applications filed subsequent to the Application dated 18th July 2022 shall be held in abeyance
 - b. The Court shall proceed to hear the Application dated 18th July 2022 inter-parties and on its merits



- c. To enable the Court, get to, understand and properly appreciate the substratum of this dispute, the matter shall proceed by way of *viva voce* evidence.
- d. The Applicants shall be deemed to be the plaintiffs and the Respondents shall be deemed to be the Defendants
- e. Each of the parties shall determine the witnesses that they intend to call and have their relevant witness statements filed as shall be directed by the Court
- f. In the meantime, the status quo pertaining on the two parcels of land the subject matter of this litigation to with Land Reference No. Uasin Gishu/ainabkoi West/1x5 And Miti Mingi/ Mbaruk Block 3(Barut) 1XX3 is to be maintained.

READ DATED AND SIGNED AT ELDORET ON 7TH MAY 2025

E. OMINDE

JUDGE

