



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Kiplangat Temorigi (Deceased) (Succession Cause
29 of 2018) [2025] KEHC 5623 (KLR) (7 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 5623 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
SUCCESSION CAUSE 29 OF 2018
JK NG'ARNG'AR, J
MAY 7, 2025**

IN THE MATTER OF THE ESTATE OF KIPLANGAT TEMORIGI (DECEASED)

BETWEEN

ESTHER CHELANGAT CHUMO 1ST OBJECTOR

ANNAH CHEPKORCH LABOSO 2ND OBJECTOR

AND

JOYCE CHEBII KIRUI RESPONDENT

RULING

1. This matter relates to the estate of Kiplangat Remorigi who died intestate on 6th November, 1970 at Kapkoros, Bomet County.
2. A petition was made by Joyce Chebii Kirui and letters of administration intestate were issued by this court on 20th December, 2018 to the Petitioner herein.
3. Summons for revocation of grant or annulment of grant was filed by the Applicants dated 3rd May, 2024 and supported by an affidavit sworn by the 1st Objector sworn on even date. The Applicants/ Objectors approached court in their capacity as daughters.
4. The Applicant herein filed the Application dated 3rd May, 2024 seeking numerous orders but from the pleadings the main orders sought is for Revocation of grant and the maintenance of status quo.
5. I have considered the summons for revocation of grant, the affidavits in support and against the summons together with submissions by both parties. The issues for determination are as follows;
 - i. Whether the grant should be revoked.
 - ii. Whether the Respondent should be restrained from dealing with the property



Whether the grant should be revoked.

6. Does the Applicant's application meet the threshold for the revocation of a grant within the meaning of Section 76 of the *Law of Succession Act*?
7. Revocation of grant is premised on section 76 of the *Law of Succession Act*, Cap 160, Laws of Kenya. The said provision states as follows:

“76. Revocation or annulment of grant

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion—

- a. that the proceedings to obtain the grant were defective in substance;
- b. that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- c. that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
- d. That the person to whom the grant was made has failed, after due notice and without reasonable cause either—
 - i. to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
 - ii. to proceed diligently with the administration of the estate; or
 - iii. to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.”

8. I find that the Applicants have to some extent proved on a balance of probability the grounds for revocation under Section 76 of the *Law of Succession Act* on the ground of being daughters to the deceased. This court will proceed to allow parties to approach the court afresh and hear the issue of distribution and ascertain the beneficiaries of the estate.
9. It is trite law that both daughters and sons of the deceased have a right to participate in intestate proceedings unless otherwise established.



Whether the Respondent should be restraint from dealing with the property.

10. In determining this issue I am guided by the decision in *Mrao Ltd v. First American Bank of Kenya Ltd & 2 others* Civil Appeal No. 39 of 2002, the court described prima facie case as:

“in civil case, it is a case in which on the material presented to the court a tribunal properly directing itself will conclude that there exists a right which has been infringed by the opposite party as to call for an explanation or rebuttal from the latter”

11. The applicant has failed to demonstrate that there is a right which have been infringed by the Respondent. See also the threshold given *Giella v Cassman Brown*[1973] EA 358. Therefore, I do not see a reason why the respondent should be impeded from dealing with the property of the deceased save for disposing or transferring to third parties of the Deceased but may be compelled to maintain status quo pending confirmation of grant.

12. Also in *Arun C. Sharma versus Ashana Raikundalia T/A A. Raikundalia & Co. Advocates & 4 others* [2014] eKLR, it was held: -

“The objector bears the burden of proving that he is entitled to or has legal or equitable interest on the whole or part of the attached property. The key words are; entitled to or to have a legal or equitable interest in the whole or part of the property. Has the objector proved it is entitled to or to have a legal or equitable interest in the whole or part?”

13. In light of the foregoing, I am inclined to allow status quo being maintained in line with prayer 2 of the summons for revocation of grant. Therefore, the application succeeds.

14. In the end, the court makes the following orders;

- i. That I hereby allow the summons for revocation of grant dated 3rd May, 2024.
- ii. Status quo be maintained.
- iii. Being a family matter each Party to bear their own costs.

DATED AND DELIVERED AT BOMET THIS 7TH DAY OF MAY, 2025

JUDGE

J. K. NG'ARNG'AR

Court of Assistant: Siele

Objectors/Applicants:present

Respondent:absent

