



REPUBLIC OF KENYA



**In re Estate of James Kimarta Ruto (Deceased) (Probate & Administration
311 of 2013) [2025] KEHC 8226 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8226 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
PROBATE & ADMINISTRATION 311 OF 2013**

RN NYAKUNDI, J

JUNE 12, 2025

IN THE MATTER OF THE ESTATE OF THE LATE JAMES KIMARTA RUTO (DECEASED)

BETWEEN

MARK KIMURGOR TANUI 1ST APPLICANT
DAVID KIPRONO KORIR 2ND APPLICANT
BEN KOSGEI 3RD APPLICANT
ANN JEPKOECH KOSGEI 4TH APPLICANT
MONICA CHEPKORIR RUTTO 5TH APPLICANT
ANN MURTIONY 6TH APPLICANT
JAIRUS K. KUTO 7TH APPLICANT

AND

ISAAC K MARTA RESPONDENT

RULING

1. This is an application made in the above-mentioned case seeking the following orders
 - a. Spent
 - b. That pending the hearing and determination of this application inter parties, this honourable court be pleased to issue conservatory orders restraining the petitioners/Respondents, their agents, servants or assigns from subdividing, transferring, disposing of, or in any way dealing with the estate of the deceased comprising the following properties: Tulwet/koisagat(sochoi) block 1/67, tulwet/tulwet bloc 7 (terige)25, lessos settlement shceme keben block phase three no 347, plot at lesson centre no 85, plot at koisagat trading centre



- c. That upon granting prayer 2 above, the application dated 21st May 2025, be set down for hearing of priority basis.

WHICH APPLICATION is based on the following grounds:

- a. That the Applicants/objectors are beneficiaries of the estate of the deceased, James Kimarta Ruto
 - b. That the Applicants/Objectors filed summons for Revocation of Grant dated 21.5.2025, which was listed for directions on 6th June 2025, with further directions scheduled for 26th June 2025
 - c. That Unfortunately, the 6th June 2025 was gazetted a national holiday and therefore the matter could not be heard
 - d. That the petitioner/Respondent shall commence the process of subdividing and transferring the estate properties pursuant to court ruling dated 24th December 2024
 - e. That surveyors shall visit the estate properties on Monday 16th June 2025 ready to commence the subdivision process, and the petitioner/Respondents intend to complete the process
 - f. That ongoing process will result to eviction of legitimate beneficiaries and creditors who have been and are still in occupation and possession of the deceased properties for a long time
 - g. That applicant/objectors will be rendered destitute as they have nowhere else to go since they have been living on the said properties for years and have established a permanent home there
 - h. That Applicant/objectors stand to suffer irreparably due to loss of property
 - i. That Unless this honourable court grants the conservatory orders, the ongoing survey and distribution will render the Applicant/Objectors' summons for Revocation of Grant dated 21st May 2025 nugatory as the estate will be irreversibly altered.
 - j. That the Applicants/Objectors will be rendered destitute as they have nowhere else to go since they have been living on the said land for a long time and have established a permanent home there
 - k. That It is in the interest of justice that the estate of the deceased be preserved and the matter be settled between the beneficiaries as the implementation of the ruling will cause breach of the peace and havoc.
2. In support of the application is also an affidavit dated the same day. I have read the entire record. These proceedings on distribution of the estate were initiated on 23.9.2013. However, the sad story is litigation on devolution of the estate remains a pipe dream to the beneficiaries. There are more interlocutory applications than a decision tailored to vindicate the rights of the heirs.
 3. The ink on the distribution scheme has not even dried before the instant application raising some underlying issues and as such even at this ex-parte stage this court has got to assess whether granting interim injunction or withholding it is more likely to produce a just result or at the end of it all render the pending application nugatory
 4. Having been involved in presiding over these proceedings of quite some time the approach I take is to grant interim temporary injunction to preserve the status quo against any beneficiary or administrators not to do something else touching on the certificate of confirmation of grant so as to improve the chances of the court being able to do justice by adjudicating the pending application on the merits.



5. The application dated 12.6.2025 shall be served upon all the beneficiaries including objectors to file responses to the application for an inter-parties hearing on 23.6.2025. In addition, parties be at liberty to file brief written submissions on the predominant issues raised in the application.

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 12TH DAY OF JUNE 2025

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R. NYAKUNDI

JUDGE

