



In re Estate of the Late Tapkurgoi w/o Sang (Decesaed) (Succession Cause 92 of 2009) [2025] KEHC 10452 (KLR) (17 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10452 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 92 OF 2009**

JK SERGON, J

JULY 17, 2025

IN THE MATTER OF THE ESTATE OF THE LATE TAPKURGOI W/O SANG (DECEASED)

IN THE MATTER OF

DAVID KIPLANGAT BEREKEI ADMINISTRATOR

RULING

1. The application coming up for determination is a notice of motion dated 27th March, 2025 seeking the following orders;
 - (i) That this Honourable Court be pleased to issue an order directing the Land Registrar, Kericho to dispense with the production of the original title deeds for land parcels Kericho/Kabianga/906 and Kericho/Kabianga/896, which were misplaced, to enable the registration of the confirmed grant on 27th February, 2025.
 - (ii) That the cost of this application be in the cause.
2. The application is supported by grounds on the face of it and the supporting affidavit of David Kiplangat Berekei one of the beneficiaries and an administrator of the estate of the deceased.
3. He avers that the letters of confirmation of grant in the instant succession cause was issued on 27.2.2025 distributing the estate of the deceased including land parcels Kericho/Kabianga/906 and Kericho/Kabianga/896 among the rightful beneficiaries.
4. He avers that the original title deeds for the said property have been misplaced and all efforts to trace them have been unsuccessful.
5. He avers that the police reports confirming loss were made at Kabianga Police Station under abstract no. OB.10/20/03/2025 and OB.12/20/03/2025 and he annexed copies of the said police abstracts.



6. He avers that in order to complete administration of the estate, it is necessary for the Land Registrar, Kericho, to dispense with the requirement for the original title deeds and allow registration of the confirmed grant.
7. He filed a further affidavit and avers that the original title deeds of land parcels Kericho/Kabianga/906 and Kericho/Kabianga/896 were in custody of Kiprono Chepkwony an administrator who is now deceased and after his demise, they were not able to trace the original title deeds of Kericho/Kabianga/906 and Kericho/Kabianga/896 since he had not disclosed the whereabouts of the original title deeds and therefore the efforts to trace the original title deeds were futile.
8. This court in noting that the instant application is unopposed finds that the sole issue for determination is whether to issue orders directing the Land Registrar, 3.Kericho to dispense with the production of the original title deeds for land parcels Kericho/Kabianga/906 and Kericho/Kabianga/896, which were misplaced, to enable the registration of the confirmed grant on 27th February, 2025.
9. Section 47 of the Law of Succession Act and rule 73 of the Probate & Administration Rules gives the probate court powers to entertain any application and make orders as may be necessary for the ends of justice.
10. The above provisions notwithstanding, section 31(1) of the Land Registration Act allows the Land Registrar to dispense with the production of a certificate of title to land or lease during the registration of any dealing with the land or lease, whereas, section 33 of the Land Registration Act provides for the procedure for applying for replacement of a lost or destroyed certificate of title or lease and these procedural steps are intended to protect the land registration system and sanctity of title.
11. In light of the provisions of section 47 of the Law of Succession Act and rule 73 of the Probate & Administration Rules which empower the court to enforce its orders and give effect to the administration of the instant estate. This Court is persuaded that it is only fair that the Land Registrar be ordered to dispense with the production of the original certificates while effecting the transmission(s) in this probate and administration cause.
12. An order is hereby issued, directing the Land Registrar, Kericho to dispense with the production and/or surrender of the original title deed of the parcels known as Kericho/Kabianga/906 and Kericho/Kabianga/896, in registration of mutation and transmission documents as per the Certificate of Confirmation of Grant issued on 27th February, 2025.
13. This being a family matter parties to bear their own costs.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 17TH DAY OF JULY 2025.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

David Kiplangat Birgei – Present in Person

