



**In re Estate of Maritim arap Chepngotiet alias Kipkoske Chepngotiet (Deceased)  
(Succession Cause E006 of 2021) [2025] KEHC 9901 (KLR) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9901 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
SUCCESSION CAUSE E006 OF 2021  
JK NG'ARNG'AR, J  
JULY 10, 2025**

**BETWEEN**

**JOSEPH RONO ..... APPLICANT**

**AND**

**REGINA CHEPTANUI ..... RESPONDENT**

**RULING**

1. Maritim Chepngotiet died intestate on the March 11, 1998 at Tenwek Hospital and resided within Chepngaina area in Bomet, and a grant of letters of administration intestate was made to the Petitioner/ applicant herein, Joseph Rono by this Court on the December 11, 2024 *vide Kericho HC Succession Cause number 184 of 2014*.
2. The affidavit of protest by the Applicants herein is dated the 23<sup>rd</sup> October, 2024. It seeks to protest the application for confirmation of grant in relation to the distribution of the estate to the Petitioner/ Respondent herein on the October 11, 2020 on the following grounds;
  - i. That the Applicant is a beneficiary and one of the Petitioners herein.
  - ii. That the 1<sup>st</sup> Petitioner disappeared from home for over ten (10) years when her first born was six years old and her second born twins were four years and during her absence, their late mother, Tabsabei Chepotut sold the Petitioner's share to pay school fees for her children and the remainder was used to purchase 0.2 acres of land for her to live on and hence she is no longer entitled to her share.
  - iii. That Denis Kiprotich Juma being a son of their late sister was settled in 0.2 acre pieces of land hence no-longer entitled. That he also has his own home where his parents were buried on and his other siblings are resident.



- iv. That strangers have been introduced to benefit from the estate. That Gilbert Kiprono is a stranger since the Applicants late father was not married and left no children behind him and even on his death. That he was buried culturally as an unmarried man and the attempts by the said beneficiary to introduce himself after the death of the protestor's brother was fully resolved.
  - v. That the persons who bought part of the estate have been left out. This are: Simon Kiplangat Ngetich, Samwel Kibilo Milgo, Juliana Chepwogen maritime, Alex Kipngetich Chebukto, Anastacia cherotich and Janeth Jemutai Kobich .
  - vi. That Titus Kipkurui, being a grand-son benefited when his mother's share was sold to pay his school fees hence his remaining 0.1 acres
3. The applicant proposed the mode of distribution as follows:
- a. Regina Cheptanui - 0.2 Acres in Kericho/SILIBET/47
  - b. Denis Kiprotich Juma- 0.2 Acres in Kericho/SILIBET/47
  - c. Regina Cheptanui – 0.1 Acres Kericho/Silibwet/7
  - d. Titus Kipkurui 0.1 acres
  - e. Bernard Korir, Paulina Chelangat and Selina Ruto 0.1 acres to be shared equally.
  - f. Simon Kiplangat Ngetich 0.1 Acres
  - g. Juliana Chepwogen Maritim 0.1 acres
  - h. Samwel Kibilo Milgo 0.05 acres
  - i. Alex Kipngetich Chebukto 0.1 Acres
  - j. Sigei Kibet Samwel 0.1 acres
  - k. Janeth Jemutai Kombich 0.1 acres
  - l. Anastacia Cherotich 0.517 acres
  - m. John Kenduiywo 0.025 Acres
  - n. Kipkorir Keter 0.2 Acres
  - o. Joseph Rono 3.4 Acres
4. They besiege this court to disallow the mode that was set earlier as the same will cause them irreparable harm.
5. The Applicant submitted that under Section 71 the *Law of succession Act*, the court is required that the distribution of an estate reflects justice among the beneficiaries. That the proposed distribution by the Petitioner/Respondent is inequitable and inconsistent with the previous family arrangement and established facts. The protestor claims to have demonstrated that Regina Cheptanui And Denis Kiprotich Juma were previously settled by allocation of land or by sale of shares to cover their dependent's needs.
6. He contends that the Petitioner/Respondent, in her proposed mode of distribution has included grand-children who have their own estate to claim from and who were not dependent on the estate. They aver that succession rights under intestacy only accrue to those who can prove direct lineage.



They rely on the case of *Estate of Simon Mwangi Kirika* [2016] eKLR stating that an alleged beneficiary must provide satisfactory evidence of the relationship with the deceased. That a person whose parent died unmarried and without issue cannot claim through the lineage.

7. The protestor prays that this court rejects the mode of distribution proposed by the Petitioner/ Respondent and adopt the protestor's mode of distribution dated 23<sup>rd</sup> October, 2024. He also urges the court to recognize the interest of all liabilities and purchasers for value, declare that Regina Cheptanui And Denis Kiprotich Juma have been settled and are not entitled to further allocation.
8. The Respondent denies the averment in the Affidavit of protest and put the Applicant to strict proof of the entire allegations therein they claim that they are untrue and not backed by evidence. They also claim that from the onset and from the court record that the protest they urge the court to verify the conduct of the Applicant/Objector who has frustrated efforts of the entire family to benefit from the estate, by his omissions and commissions i.e failure to prosecute and participate in the matter through absenteeism as can be deduced from the court record from the year 2014 to date.
9. She claims that the objector's affidavit is a way of delaying the process of concluding this succession cause, for his own sake and making allegations that are not backed by an iota of evidence. They also claim that she was served by a plain affidavit of protest without annexures listed. They could still not trace them in the court file.
10. She denies the allegations laid by the Applicant has no proof and claims that the mode of distribution proposed by the Applicant is totally unfair and is based on male superiority of the Applicant and has no other beneficiary but himself. The Respondent prays that this court rejects the Applicant's proposal and proceed to distribute the property as per the proposed mode of distribution by the Respondent or in the alternate distribute the property amongst all direct Children/beneficiaries of the deceased irrespective of gender.

### **Determination**

11. I have considered the objector's application, the affidavits in support and against the Application together with the rival submissions by both parties. The issues for determination is whether the grant of Letters of Administration to the Estate should be confirmed and the proposed modes of distribution by the parties herein.
12. The duty is for the Protestor to disclose all material facts in relation to such application. Section 109 of the *Evidence Act* states:

“The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person”
13. The court finds that the Applicant has failed to prove any of the grounds as per the protest under Section 76 of the *Law of Succession Act*. It is noted that a mediation meeting was held on 15<sup>th</sup> November, 2023 and it is on record that the Respondent administrator failed to turn up for the said meeting despite having knowledge of the same.

This court also notes that the protestor did not lay an Objection during the pendency of the succession process.
14. This court further notes that the succession cause was initiated in 2014 seems verbose and have been occasioned by the actions of the Respondent/Administrator in him failing to apply for the confirmation of grant. This court notes from the averments raised in the affidavit sworn by the 1<sup>st</sup>



Petitioner/Applicant on 29<sup>th</sup> November, 2021 where she stated that the Respondent/Administrator failed to apply for confirmation of grant issued on 11<sup>th</sup> December, 2014 in Kericho *HC Succession Cause No. 184 of 2014* because he perennially failed to attend court. This fact is further corroborated by the affidavit sworn by Regina Cheptanui on 18<sup>th</sup> November, 2019 who claimed that the Administrator/Respondent failed to propose a mode of distribution hence the delay in concluding this cause.

15. Specifically, on the face of it, if this court was to act in concurrence with the annexed proposed model of distribution as noted there is need to identify entitlement to the beneficiaries. The law of succession requires the immediate distribution of all the residuary assets to the beneficiaries with a contingent provision for a continuing trust permissible where an estate happened to have children who have not attained the age of majority. There is no evidence that this is the case here to disjustify the distribution of the estate.
16. Therefore, to promote protection of Human rights on inheritance this court has broad discretion to bar that which is likely to occasion an injustice to the parties who have a common right to the subject.
17. In determining this issue I am guided by the decision in *In Re Estate of Joel Cheruoyot Ronoh* [2016] eKLR where the court pronounced itself

“Perhaps I could exercise inherent power under Rule 73 of the *Probate and Administration Rules*, where such power is saved to meet the ends of justice or to prevent abuse of the process of court. The applicant has not invoked Rule 73, but the power is inherent, the court can tap on it at anytime when it appears that that may be necessary. I understand the applicant to be inviting me to set aside the confirmation orders that gave rise to the certificate of confirmation of grant dated 29<sup>th</sup> February 2012, on the ground that he was not granted opportunity to state his case for he was not served with the confirmation application or with notice of its hearing.”

- a. This court notes the 1<sup>st</sup> Petitioner/Applicant has met the threshold as construed with Rule 73(1) of the *Probate and Administration Rules* in making the application for re-distribution of the Estate. The applicant in filing the mode of distribution stays within the letter and spirit of Sections 36,37, 38 and 41 of the *Law of Succession Act*.
18. For all these reasons, and all issues considered pertaining to the application, the following order shall abide.
    - a. That the mode of distribution is adopted as follows:



Name	Description Of Property	Shares Of Heirs/household
Gilbert Kiprono (holding In Trust For Himself And Mercy Chepkoech)	Kericho/ Silibwet/7	0.9 Of An Acre
Paulina Chelangat (holding In Trust For Herself And Abigael Chebet)	Kericho/Silibwet/ 7	1.6 Acres
Dennis Juma	Kericho/Silibwet/ 7	0.3 Of An Acre
Joseph Rono	Kericho/Silibwet/ 7	1.2 Of An Acre
Regina Cheptanui	Kericho/Silibwet/ 7	1 Acre
Titus Kipkurui	Kericho/Silibwet/ 7	1 Acre

The grant is confirmed as per the above mode of distribution.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 10<sup>TH</sup> DAY OF JULY, 2025.**

.....

**HON. JULIUS K. NG'ARNG'AR**

**JUDGE**

Ruling delivered in the absence of the Petitioner and in the presence of Ms.Caren Kosgey for the Respondent. Siele/Susan (Court Assistants).

