



REPUBLIC OF KENYA



**In re Estate of Kipgech Arap Chesaina (Deceased) (Succession Cause  
156 of 2014) [2025] KEHC 12855 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12855 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 156 OF 2014  
RN NYAKUNDI, J  
SEPTEMBER 19, 2025**

**THE MATTER OF THE ESTATE OF THE LATE KIPGECH ARAP CHESAINA(DECEASED)**

**RULING**

1. This is an application dated 5<sup>th</sup> August 2025 seeking the following orders:
  - i. That the Petitioners were issued with letters of administration intestate herein and which was confirmed on 16<sup>th</sup> day of September, 2021 is hereby rectified as follows
    - a. The name of the first and second Petitioner be spelt as Yego Kipkech instead of Joseph Yego Kipkech and Paul Kipkech Cheserek instated of Paul Kipkech Cheserek
    - b. The names of the beneficiaries be written correctly to Wit Abraham Kibiwot instead of Abraham Yator Kibiwot, Francis Chruiyot Biwot instead of Francis Biwott and Moses Kipkore Kiptanui instead of Moses Kiptanui
    - c. That the shares of 2.5665 hectares from title No Lelan/Kaptalamwa/219 belonging to Musa Yator Kipkech now deceased be given to his son, Fredrick KiruiWhich application is grounded on the affidavit of Paul Kipkech Cheserek and on the further grounds set out here below:
    - a. The names of the beneficiaries were misspelt and the error was discovered at the point of subdivision when their civilian identity card revealed their correct spelling
    - b. That it is necessary that certificate of confirmation of grant issued in this cause by Honourable court be amended
    - c. It is fair and just that these changes be included in the grant for better winding up of the estate by the applicant
2. It is further annexed by an affidavit sworn by Paul Kipkech Cheserek which states as follows:-



- I. That I am the 2<sup>nd</sup> petitioner/applicant herein and thus competent to swear this affidavit
- II. That the proceedings herein relate to the estate of our late father Kipgech Arap Chesaina that I and my co-administrators were issued with certificate of confirmation of grant

### Decision

3. The law which governs rectification of grant in Section 74 of the Act which reads inter -alia “ errors in names and descriptions or in setting forth the time and place of the deceased’s death or the purpose in a limited grant, may be rectified by the court, and the grant of representation, whether before or after confirmation, may be altered and amended accordingly. Besides Section 74 section 63 of the Probate and Administration Rules adopted some of the provisions of the Civil Procedure Rules to entrench the law and the rules to guide the court on rectification.
4. The Applicant has deponed the grounds upon which the certificate of grant of confirmation should be rectified as provided in Clause (a), (b) & ( c) of the substantive summons dated 5.8.2025. As a consequence, the following errors apparent on the face of the record, takes effect:
  - a. The name of the first and second Petitioner be spelt as Yego Kipkech instead of Joseph Yego Kipkech and Paul Kipkech Cheserek instated of Paul Cheserek
  - b. The names of the beneficiaries be written correctly to Wit Abraham Kibiwot instead of Abraham Yator Kibiwot, Francis Chruiyot Biwot instead of Francis Biwott and Moses Kipkore Kiptanui instead of Moses Kiptanui
  - c. That the shares of 2.5665 hectares from title No Lelan/Kaptalamwa/219 belonging to Musa Yator Kipkech now deceased be given to his son, Fredrick Kirui
5. For those reasons the Deputy Registrar moves to amend the certificate of confirmation of grant dated 16<sup>th</sup> of September 2021 to be granted.
6. This ruling will not be complete without evoking the provisions of Section 76 of the [Law of Succession Act](#) which provides as follows:

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. (e) that the grant has become useless and inoperative through subsequent circumstances.
7. What is wrong with this Certificate of confirmation of grant dated 16.9.2021. There has been inordinate delay to transmit the estate outside the timeline of six (6) months outlined in the statute. The administrator is therefore put on notice that this court will invoke the inherent jurisdiction



read alongside section 76 of the Act to revoke his appointment and have him substituted by another administrator capable of delivering obedience to the court orders as sworn in the affidavits that he would be faithful and diligent in the administration of the estate. In this respect there is enlargement of time of 45 days to monitor compliance on the duties and functions of the administrator. The status conference to be held on 17.11.2025

**DATED, SIGNED AND DELIVERED AT ELDORT VIA EMAIL THIS 19<sup>TH</sup> DAY OF SEPTEMBER, 2025**

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**R. NYAKUNDI**

**JUDGE**

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