



**In re Estate of Cheres Arap Kamoing alias Cheres Kamoing (Deceased)
(Succession Cause 22 of 2012) [2024] KEHC 8873 (KLR) (25 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8873 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 22 OF 2012**

JK SERGON, J

JULY 25, 2024

**IN THE MATTER OF THE ESTATE OF THE LATE CHERES
ARAP KAMOING ALIAS CHERES KAMOING (DECEASED)**

IN THE MATTER OF

ROSALINE CHEPKURUI KETER 1ST APPLICANT

PETER KIPNGETICH RONO 2ND APPLICANT

RULING

1. The application coming up for determination is a chamber summons dated 18th March, 2024 seeking the following orders;
 - (i) That this Honourable Court be pleased to set aside its orders issued on the 17th October, 2018 closing the succession cause herein and reopen the same and the matter be readmitted for confirmation.
 - (ii) That necessary directions be given.
 - (iii) That costs are the cause.
2. The application is supported by grounds on the face of it and the supporting affidavit sworn by Rosaline Chepkurui Keter the 1st petitioner/ applicant herein on behalf of the co-applicant.
3. The applicant avers that in the year 2012 or thereabouts they filed a succession cause and temporary grant of letters of administration intestate was issued on 18th February, 2013.
4. The applicant further avers that upon issuance of the said temporary grant of letters of administration intestate, they filed summons for confirmation of grant on 22nd August, 2017, however, thereafter they failed to take further necessary action to prosecute the instant succession cause as the beneficiaries of the estate herein had not agreed on the mode of distribution of the said estate.



5. The applicant avers that the failure to have the grant confirmed, this Honourable Court closed the instant succession cause on 17th October, 2012 and further that the notice of intention to close the file herein was neither served upon the beneficiaries nor their advocates on record.
6. The applicant avers that they have agreed on how to distribute the estate of their deceased mother, thus, they were now eager and anxious to have the matter herein concluded and obtain the necessary orders from this Court to wit confirmation of grant.
7. The applicant avers that the beneficiaries of the estate herein stand to suffer great prejudice unless the orders herein are set aside, they will be condemned unheard contrary to the rules of natural justice.
8. The applicant further avers that in the circumstances it is only fair and just and in accordance with the tenants of natural justice that the dismissal order herein be set aside and the matter herein be readmitted for confirmation of grant.
9. Having considered pleadings, the sole issue for determination by this court is whether to set aside the dismissal order and readmit the instant succession cause for confirmation of grant. The answer is in the affirmative. Pursuant to the provisions of section 47 of the Law of Succession Act, this court has jurisdiction to entertain any application and determine any dispute under the Act and to pronounce such decrees and make such orders therein as may be expedient. Further, rule 73 of the Probate and Administration Rules preserves the inherent jurisdiction of this court while dealing with matters of succession.
10. Consequently, the chamber summons dated 18th March, 2024 is hereby allowed giving rise to the following orders;
 - (i) I hereby set aside the orders issued on the 17th October, 2018 closing the instant succession cause and reopen the same.
 - (ii) I hereby direct that the matter be readmitted for confirmation of grant and that the parties file the preferred mode of distribution alongside a fresh summons for confirmation of grant.
 - (iii) The costs of this application be in the cause.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 25TH DAY OF JULY, 2024.

.....
J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant – Rutoh

Peter Rono – Present

Rosaline Keter - Present

