



REPUBLIC OF KENYA



In re Estate of the Late Chesina Arap Barsigan (Deceased) (Succession Cause E079 of 2024) [2024] KEHC 9131 (KLR) (22 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9131 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
SUCCESSION CAUSE E079 OF 2024**

PN GICHOHI, J

JULY 22, 2024

**IN THE MATTER OF THE ESTATE OF THE
LATE CHESINA ARAP BARSIGAN (DECEASED)**

THROUGH

REUBEN KIPROP BARSIGAN

AND

**IN THE MATTER OF AN APPLICATION FOR LETTERS OF
ADMINISTRATION AD LITEM BY REUBEN KIPROP BARSIGAN**

AND

**IN THE MATTER OF SECTION 67 OF THE LAW
OF SUCCESSION ACT CAP 160 LAWS OF KENYA**

PETITION FOR LETTERS OF ADMINISTRATION AD LITEM

*(Under Section 54, 67 of the Law of Succession Act,
Rule 36 of the Probate and Administration Rules)*

RULING

1. The Petitioner/applicant (Reuben Kiprop Barsigan) filed this Petition dated 4th June 2024 under a certificate of urgency in his capacity as the son of Chesina Arap Barsigan and seeking that he be issued with a grant of letters Administration Ad Litem for purposes continuing with the Suit being Environment and Land Court at Eldoret being ELC No. 208 of 2014 where the Deceased was the 1st Defendant. He believes that the suit property in question forms part of the estate of the deceased.
2. In support of the Petition, is an Affidavit which he swore on 4th June 2024 where he has annexed several documents including a signed consent by other beneficiaries including his mother (widow of the deceased) and his siblings (sons and daughters of the deceased), the letter from the area Chief, the



death certificate and a Chamber Summons in the said Environment and Land Court at Eldoret being ELC No. 208 of 2014.

Determination

3. This Court has considered the Petition, affidavit in support and annexures thereto. Section 54 of the Law of Succession Cap 160 Laws of Kenya provides that:-

“A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.”

4. Further, Rule 36 of the *Probate and Administration Rules* provides that:-

1. Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate of the deceased.
2. Every such grant shall be in Form 47 and be expressly limited for the purpose only of collecting and getting in and receiving the estate and doing such acts as may be necessary for the preservation of the estate and until a further grant is made.

5. However, what is clear is that the Petitioner is seeking a Grant Ad Litem for purposes of representing continuing with and defending the deceased in a suit that is pending in court. There being a consensus by all the beneficiaries, then it would be in the interest of justice to allow the petition the circumstances pertaining thereto and only for the purpose sought.

6. This Court therefore makes the following orders:-

1. Reuben Kiprop Barsigan be and is hereby nominated as a legal representative of Chesina Arap Barsigan (deceased) for purposes of representing the deceased in Environment and Land Court being Eldoret ELC Case No. 208 of 2014.
2. A Grant of letters of Administration Ad Litem be and is hereby issued to him for that purpose only.
3. For avoidance of doubt, the said Grant does not grant Reuben Kiprop Barsigan power of distribution of the estate of the deceased.
4. There are no orders as to costs.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 22ND DAY OF JULY, 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:

Reuben Kiprop Barsigan - Petitioner

Ruto- Court Assistant

