



**Kimetto v Chepkwony & 4 others (Succession Cause 7 of 2018)
[2023] KEHC 19202 (KLR) (15 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19202 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 7 OF 2018**

**JK SERGON, J
JUNE 15, 2023**

BETWEEN

EUNICE CHELANGAT KIMETTO APPLICANT

AND

ISHMAEL CHEPKWONY 1ST RESPONDENT

PAMELA CHEPKWONY 2ND RESPONDENT

ALICE CHEPKWONY 3RD RESPONDENT

KEHIHO STYLEX LIMITED 4TH RESPONDENT

KEROMATT LIMITED 5TH RESPONDENT

RULING

1. On 2nd September, 2023, a partial medication settlement agreement was executed showing the distribution of the following assets of the Estate:
 - a. L.R. No. Elburgon/Arimi/Ndoshwa Block 7/36 (Waldai) measuring approximately 3 Acres
 - b. Legetio Farm measuring approximately 3 acres.
 - c. KCB Bank Limited
 - d. Barclays (ABSA) Bank Limited
 - e. Uniliver Tea (K) Ltd
 - f. Co-operative Bank Ltd
 - g. Standard chartered Bank Ltd
 - h. Kenya Airway Ltd



- i. E.A. Breweries Ltd
 - j. ICDC Investment Ltd
 - k. British American Unit Trust Fund
 - l. Sinendet Tea Multi-Purpose Co-operative Society Ltd.
 - m. Saptet House Building Block 5/437
 - n. Kipsigi Tradings Ltd
 - o. Patnas Sacco Ltd
 - p. KTDA Litein Factory Ltd.
 - q. Mau Tea Development
 - r. Any other unknown shares
2. The beneficiaries were unable to agree on the distribution of the following properties:-
 - a. Kericho/Municipality L.R.No.631/19/III IR 9590 (Urban Plot – Stylex/Keromatt Building);
 - b. L.R. No.Kericho/Kedowa (Urban Plot) Sitian Shop & Butchery Building (Unsurveyed);
 - c. L.R. No.Kericho/Litein/8839/52 Urban Plot – (Lasoi Bookshop Building);
 - d. Kericho/Municipality L.R. No.631/IV/2 IR 9450 (Urban Plot – Kipsigis Traders Building);
 - e. Ng’atumek Kalya Farm measuring approximately 0.2 Acres.
 - f. Chemosot/Kabartega PlotNo.290 measuring approximately 50 x 100 feet
 3. Learned Counsels for the parties appeared before this court and gave competing arguments on the mode of distribution of the properties the parties had not agreed upon.
 4. It is the submission of Mr. J. K. Mutai, Learned Counsel for the Petitioner that this Court had distributed the aforesaid properties vide it ruling delivered on 1st October, 2021 therefore the Court should confirm the grant.
 5. Mr. Sang, Learned Advocate for the Protestors is of the submission of the identified properties should be heard and determined by this Court.
 6. I have considered the rival arguments put forward by Learned Counsels. I have equally perused the material placed before this Court. As far as this Court is concerned, the main issue which has been left for the determination of this Court is the question as to whether or not this Court distributed the assets of the Estate vide its Ruling delivered on 1st October, 2021.
 7. The record shows that the mediation partial settlement agreement was adopted as the decision of this Court on 28th September, 2022.
 8. Upon a critical examination of the record, it is apparent that on 1st October, 2021, Lady Justice Ongeru delivered her ruling in which she dismissed the protest. She also stated that since the protestors had not shown their mode of distribution, the proposal by the Petitioner should be used as the mode of distribution.



9. It is also apparent that on 15/12/2022, a fresh grant was issued and the Administrators of the Estate were named as Ismael Kiprono Chepkwony and Eunice Chelangat Kimetto. The court mandated the Administrators and all the beneficiaries were directed to agree on the mode of distribution and to file summons for confirmation of grant.
10. It would appear the parties did not agree on the mode of distribution. This Court was prompted, refer the dispute to Court Annexed Mediation. The outcome of the Court Annexed Mediation gave rise to a partial settlement agreement.
11. Having considered material placed before this court plus the short oral submissions by Learned Counsels, I have come to the conclusion that this Court had not conclusively determined the distribution of the Estate and that is why it referred the matter to Court annexed Mediation to conclusively determine the issue.
12. There is no dispute that the Court Annexed Mediation returned a partial settlement agreement on the distribution of the properties earlier identified at the beginning of this Ruling. It is only fair to hear the parties on the distribution of the properties identified hereinabove.
13. I hereby direct that the cause should be listed for hearing on the distribution of the following properties.
 - a. Kericho/Municipality L.R.No.631/19/III IR 9590 (Urban Plot – Stylex/Keromatt Building);
 - (b) L.R. No.Kericho/Kedowa (Urban Plot) Sitian Shop & Butchery Building (Unsurveyed);
 - (c) L.R. No.Kericho/Litein/8839/52 Urban Plot – (Lasoi Bookshop Building);
 - d. Kericho/Municipality L.R. No.631/IV/2 IR 9450 (Urban Plot – Kipsigis Traders Building);
 - e. Ng’atumek Kalya Farm measuring approximately 0.2 Acres.
 - f. Chemosot/Kabartega PlotNo.290 measuring approximately 50 x 100 feet.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 15TH DAY OF JUNE, 2023.

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J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

Kiletyn for 1st, 2nd & 3rd Respondent

Kirui holding brief for Mutai for the Petitioner

