



REPUBLIC OF KENYA



In re Estate of Grace Chepkirui Ngeno (Deceased) (Succession Cause E004 of 2022) [2023] KEHC 23780 (KLR) (19 October 2023) (Judgment)

Neutral citation: [2023] KEHC 23780 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE E004 OF 2022
JK SERGON, J
OCTOBER 19, 2023**

BETWEEN

ERICK KIPYEGON SANG 1ST PETITIONER

CHEROTICH VIVILINE NGENO 2ND PETITIONER

AND

GILBERT KIPRONO SANG 1ST PROTESTOR

RICHARD KIPKEMOI SANG 2ND PROTESTOR

KENNETH KIPROTICH SANG 3RD PROTESTOR

ROBERT KIBET SANG 4TH PROTESTOR

NANCY CHEPKEMOI MARITIM 5TH PROTESTOR

JUDGMENT

1. The 1st and the 2nd petitioners herein who are the joint administrators of the estate of Grace Chepkirui Ngeno, the deceased herein, filed summons for confirmation of grant seeking to have the grant of letters of administration issued to them on March 11, 2022 be confirmed.
2. The petitioners filed an affidavit in support of the summons for confirmation of grant dated September 22, 2022 sworn by Viviline Cherotich Ngeno, the 2nd petitioner herein and stated that the deceased died intestate and left the following dependents;
 - i. Alice Koech Ngeno Daughter
 - ii. Erick Kipyegon Sang Son
 - iii. Nancy Chepkemoi Ngeno Maritim Daughter
 - iv. Jane Koech Survived By



- Hillary Kimutai Deceased Daughter
- v. Irine Chepngeno Ngeno Daughter
 - vi. Gladys Chelangat Daughter
 - vii. Richard Kipkemoi Sang Son
 - viii. Robert Kibet Sang Son
 - ix. Kenneth Kipngetich Sang Son
 - x. Viviline Cherotich Ngeno Daughter
 - xi. Beatrice Chebet Ngeno Daughter
 - xii. Gilbert Kiprono Sang Son
3. She averred that the deceased had the following assets;
- i. Kenya Commercial Bank Limited Shares.
 - ii. Standard Chartered Bank Shares
 - iii. National Industrial Credit Limited Shares
 - iv. ABSA Bank Shares.
 - v. NIC Bank Shares
 - vi. Image Registrars
 - vii. Chepsir/Kapketunga women's group shares.
4. That no application of provision for dependants was pending and that it is now over six (6) months since the grant was issued and no objection had been contemplated and that there was no dependant of the deceased who had been left out hence the identification and distribution of the estate of the deceased be ascertained and determined as follows:
- i. Kenya Commercial Bank Limited shares to be divided equally among the 12 beneficiaries.
 - ii. Standard Chartered Bank shares to be divided equally among the 12 beneficiaries.
 - iii. National Industrial Credit Limited Shares to be divided equally among the 12 beneficiaries.
 - iv. ABSA Bank Shares to be divided equally among the 12 beneficiaries.
 - v. NIC Bank Shares to be divided equally among the 12 beneficiaries.
 - vi. Image Registrars Shares to be divided equally among the 12 beneficiaries.
 - vii. Chepsir/Kapketunga women's group shares to be given to Kenneth Kiprotich Sang
5. She averred that no estate duty was payable in respect of the Estate of the deceased hence the court ought to confirm the grant.
6. Gilbert Kiprono Sang, Richard Kipkemoi Sang, Kenneth Kiprotich Sang, Robert Kibet Sang and Nancy Chepkemoi Maritim filed an affidavit of protest dated June 26, 2023 whereby they averred that the consent to the making of Grant of Letters of Administration Intestate dated September 22, 2022 was never signed or presented to the protestors herein, hence the purported summons for confirmation



dated September 22, 2022 lacked the legal force of law for confirmation and did not meet the threshold set out by the law of succession on the requirements for consent to the summons in support.

7. That mode of distribution as per the Summons for Confirmation is highly contested by the protestors herein who had never participated or included by the petitioners in any manner whatsoever, in so far as the distribution of the estate of the deceased is concerned and that the same was a mere creation of the petitioners for their own selfish gains.
8. They averred that the pleadings on record by the petitioners are forgeries since no meeting has ever been held by the beneficiaries of the estate of the deceased on and for deliberations in regard to the distribution of the estate of the deceased
9. They further averred that the institution of the cause herein, the appointment of the administrators herein and the petitioners are in a plot to hurriedly rush the court to having the estate distributed as per their wishes against the laws governing proceedings in succession matters.
10. That the instant application for confirmation of grant has been brought in bad faith, to arbitrarily defeat, frustrate and abuse the course of justice and the court process.
11. I have considered the Summons for confirmation of grant and the supporting affidavit as well as the Affidavit of Protest. It is clear that there is no dispute about the beneficiaries. From the Affidavits and evidence given by parties, there is no liability of the estate listed neither has there been an application by any other person laying claim on the estate. I find that the main issue for determination is how the deceased estate should be distributed.
12. The protestors herein have just alleged that the instant application was brought in bad faith and that they highly contest the mode of distribution proposed by the petitioners' but they have not proposed their preferred mode of distribution. The protestors did not contest the existence of the assets listed by the petitioners either. I find that the Petitioners proposed mode of distribution is fair in the circumstances.
13. The upshot therefore is that the Summons for Confirmation of Grant dated September 22, 2022 allowed.
 - a. The Estate of Grace Chepkirui Ngeno be distributed as proposed in the Affidavit Supporting the Summons for confirmation of grant dated September 22, 2022 as follows:
 - i. Kenya Commercial Bank Limited shares to be divided equally among the 12 beneficiaries.
 - ii. Standard Chartered Bank shares to be divided equally among the 12 beneficiaries.
 - iii. National Industrial Credit Limited Shares to be divided equally among the 12 beneficiaries.
 - iv. ABSA Bank Shares to be divided equally among the 12 beneficiaries.
 - v. NIC Bank Shares to be divided equally among the 12 beneficiaries.
 - vi. Imagine Registrars Shares to be divided equally among the 12 beneficiaries.
 - vii. Chepsir/Kapketunga women's group shares to be given to Kenneth Kiprotich Sang
 - b. The Affidavit of Protest against Confirmation of Grant dated June 26, 2023 is dismissed.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF OCTOBER, 2023



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J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

No Appearance for the Petitioners

No Appearance for the Beneficiaries

