



**In re Estate of James Kipketer Rono (Deceased) (Succession Cause 332 of 2015) [2023] KEHC 23641 (KLR) (17 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23641 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 332 OF 2015  
RN NYAKUNDI, J  
OCTOBER 17, 2023**

**IN THE MATTER OF THE ESTATE OF JAMES KIPKETER RONO (DECEASED)**

**BETWEEN**

**DANIEL KIPCHUMBA KETER ..... PETITIONER**

**AND**

**BENJAMIN KIPROTICH KETER ..... OBJECTOR**

**RULING**

1. The court confirmed the amended grant of letters of administration intestate and issued the certificate of confirmation of grant on November 25, 2022. Vide an order dated March 27, 2023, the court directed the county surveyor to visit the estate and undertake a survey of the estate. The county surveyor filed a report on July 31, 2023. The findings of the report were as follows;

Findings on parcel No Nandi/Chepkumia/91 The land is on occupation by the families of Leah Rono (parcel A) and Esther Rono (parcel B) separated by the red line on the attached plan. The total acreage for the parcel was found to be 38.92 acres (15.75 ha). Each family occupies as follows.

Parcel Family/Occupant Area in acres Area in hectares

a Leah Rono (3<sup>rd</sup> house) 20.37 8.24

b Esther Rono (1<sup>st</sup> house) 18.55 7.51

Findings on parcel No Nandi/Chepkumia/1181.

The land is on occupation by the family of Eveline Rono (2<sup>nd</sup> house) There is an even width road passing through the land which was picked and plotted as shown by the red lines. (see attached plan) The total acreage for the land was found to be 44.63 acres. (18.062 ha) Each



of the family members occupies the land as follows (parcel indicated by the red lines, see attached plan)

Parcel Occupant Area in acres Area in hectares

- a Paulo Kipruto 10.93 4.43
- b Thomas Kiptoo Keter 13.03 5.27
- c Joel Kipchumba Keter 10.10 4.09
- d Family 1.52 0.615
- e Trucila Jelagat 6.90 2.79
- f
  - a) Alice Cheserem
  - b) Mary Jerubet(Deceased) 1.74 0.704
  - c) Sarah Jematia
  - d) Julia Jemeli

2. The proposed mode of distribution by the 2<sup>nd</sup> and 3<sup>rd</sup> houses was as follows;

- 1. Cheptiret/Cheplaskei Block 5 (Chemenei) 13- 2.71 Ha (6.70 Acres).  
To be shared among members of the 3<sup>rd</sup> House. This is Uncontested.
- 2. Nandi/Chepkumia/1181 - 17.6 Ha(43.49 Acres )  
To be shared among members of the 2<sup>nd</sup> House as follows;
  - i. Trusila Chelagat Daughter 7 Acres
  - ii. Paulo Kipruto Keter Son 11.167 Acres
  - iii. Thomas Kiptoo Keter Son 11.167 Acres
  - iv. Joel Kipchumba Keter Son 11.167 Acres
  - v. Sally Chepkosgei Daughter 0.5 Acres
  - vi. Sara Chematia Daughter 0.5 Acres
  - vii. Jebet for Mary Cherubet Deceased 0.5 Acres
  - viii. Julia Chemeli Daughter 0.5 Acres
  - ix. Alice Cheserem Daughter 0.5 Acres
- 3. Nandi/Chepkumia/91 - 15.5 HA(38.30 Acres)  
To be shared equally among the 1<sup>st</sup> and 3<sup>rd</sup> Houses.
- 4. Chepkumia Centre Plot No 4 - 100 x 50 Feet  
To be shared equally among the 2<sup>nd</sup> and 3<sup>rd</sup> Houses.
- 5. Kibung'u Centre Plot No 1 - 100 X 50 Feet



For the 1<sup>st</sup> house. Uncontested.

6. Kibung'u Centre Plot No 4 - 50x 50 Feet

For the 1<sup>st</sup> House. Uncontested.

7. Kibung'u Centre Plot No 5 - 100 X 50 Feet

For the 1<sup>st</sup> house. Uncontested.

8. Posho Mill-piston Machine

9. Chaff Cutter

10. 2 Animal Grinding Machine

Can be allotted to the 1<sup>st</sup> House

11. Funds at National Bank of Kenya Account No xxxxxxxxxxxxxx – will be shared amongst the dependants equally.

3. I am alive to the provisions of section 40 of the Law of Succession Act which provides as follows;

- (1) Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.

4. In applying this provision, it should be noted that the court takes into consideration the families that the deceased left behind and that in his lifetime, he had positioned them on his properties which form part of the estate. Whereas the legal requirement is that the property comprising the estate of the deceased should be distributed equally, it is in the interests of justice to apply this provision in a sensible manner. By this I mean that where the acreage of the property is close to an exact or precise portion of the estate, the same is not to be applied with mathematical strictness. Keeping this in mind, together with the fact that there is no contest as to the proposed mode of distribution, it is my considered view that the proposed mode of distribution is in tandem with the statutory provisions. Given the location of the parcels, it is my considered view that the family members will have no difficulty in ensuring each member gets the portions as proposed in the mode of distribution.

5. I hereby allow the proposed mode of distribution by the 2<sup>nd</sup> and 3<sup>rd</sup> houses dated March 24, 2023.

**DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 17<sup>TH</sup> DAY OF OCTOBER 2023**

**In the Presence of**

Mr. Daniel Kipchumba

Jane Kipkoech

.....

**R. NYAKUNDI**

**JUDGE**

