



**In re Estate of Late Zablun Komingoi Mataget alias Komingoi Mataget (Deceased)  
(Succession Cause 220 of 2014) [2023] KEHC 23689 (KLR) (12 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23689 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 220 OF 2014**

**JK SERGON, J**

**OCTOBER 12, 2023**

**IN THE MATTER OF THE ESTATE OF THE LATE ZABLON  
KOMINGOI MATAGET ALIAS KOMINGOI MATAGET  
(DECEASED)**

**BETWEEN**

**ANDREW CHERUIYOT ..... 1<sup>ST</sup> PETITIONER**

**STANLEY CHERUIYOT ..... 2<sup>ND</sup> PETITIONER**

**AND**

**ANNA C MATAGET ..... PETITIONER**

**RULING**

1. The instant succession matter was previously marked as closed in the High Court as the matter is before the Court of Appeal. However, on June 13, 2023, Mr Miruka Learned Counsel for the 2<sup>nd</sup> Petitioner requested for the summons dated February 5, 2019 to be given a hearing date and the matter was fixed for interpartes hearing on July 31, 2023.
2. The application dated February 5, 2019 is a summons seeking to execute a certificate of confirmation of grant dated June 14, 2018 issued by Mumbi Ngugi – Judge as she then was. The Application was supported by grounds on the face of it and by an Affidavit sworn in support of summons sworn by Ann Cheronno Mateget.
3. On July 31, 2023, the instant application came up for interpartes hearing.
4. Mr Migiro, Learned Counsel for the 1<sup>st</sup> and 3<sup>rd</sup> Petitioners raised a preliminary objection and argued that the application had been overtaken by events and further that there was an order for Stay of Execution pending Appeal issued on November 28, 2022 by Ongeru – Judge and that subsequently, the file was ordered to be closed and therefore the instant Application is an abuse of court Process.



5. Mr Miruka, Learned Counsel for the 2<sup>nd</sup> Petitioners argued that the Order referred to by his colleague was fundamentally different from what the Court issued and that there was no stay from the Court of Appeal and further that in the absence of any Order staying proceedings in the Court of Appeal, the Certificate herein should be executed. He therefore reiterated that he was seeking for Orders sought in the Chamber Summons dated February 5, 2019.
6. I have thoroughly examined proceedings in this Succession Cause. This court vide a Ruling delivered by Ongeri – Judge on October 11, 2022 ordered for rectification of the Certificate of Confirmation of Grant dated June 14, 2018 issued by Mumbi Ngugi – Judge as she then was and subsequently issued a rectified Certificate of Confirmation of Grant issued on October 11, 2022 pending the hearing and determination of the intended Appeal.
7. I hereby concur with Mr Migiro, Learned Counsel for the 1<sup>st</sup> and 3<sup>rd</sup> Petitioners that the Application dated February 5, 2019 has been overtaken by events and further to this, there is an Order of Stay of Execution of the Ruling and Certificate of Confirmation of grant dated October 11, 2022 pending hearing and determination of the Appeal. Accordingly, I find that the Application dated February 5, 2019 lacks merit and the same is hereby dismissed with no order as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 12<sup>TH</sup> DAY OF OCTOBER, 2023**

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**J. K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Miruka for 1<sup>st</sup> & 2<sup>nd</sup> Petitioner

Migiro for 3<sup>rd</sup> Petitioner

