



**In re Estate of the Late Kipkoech Chumo alias Kipkoech arap Chumo (Deceased)  
(Succession Cause 135 of 2013) [2024] KEHC 15467 (KLR) (5 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15467 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 135 OF 2013**

**JK SERGON, J**

**DECEMBER 5, 2024**

**IN THE MATTER OF THE ESTATE OF THE LATE KIPKOECH  
CHUMO ALIAS KIPKOECH ARAP CHUMO DECEASED**

**BETWEEN**

**SARAH CHEPKORIR CHUMO ..... APPLICANT**

**AND**

**DAVID KIPLANGAT KOECH ..... RESPONDENT**

**RULING**

1. The Petitioner filed summons for the confirmation of grant dated 29th August, 2014 seeking to have the grant of letters of administration intestate made to the said Sarah Chepkorir Chumo confirmed.
2. The Petitioner filed an affidavit in support of the summons for confirmation of grant in which she avers that all the beneficiaries of the estate had been ascertained and their shares to the estate of the deceased ascertained and determined as follows;
  - a. Kericho/Cheborge/399 measuring 9 acres - 4.5 acres to David Kiplangat Koech to hold in trust for the members of the first house and 4.5 acres to Sarah Chepkorir Chumo to hold in trust for the members of the second house
  - b. Molo South/Ikumbi Block 9/75 (Haraka Farm) measuring 5 acres - 2.5 acres to David Kiplangat Koech to hold in trust for the members of the first house and 2.5 acres to Sarah Chepkorir Chumo to hold in trust for the members of the second house
3. The Objector in response filed an affidavit of protest against confirmation of grant dated 19th September, 2014.
4. The Objector avers that he is the eldest son from the 1st house and his mother, the late Taprandich Chumo who was the first widow of the deceased.



5. The Objector avers that the Sarah Chepkorir Chumo the Petitioner herein and the second widow of the deceased obtained the grant fraudulently without the consent of the beneficiaries of the estate.
6. The Objector avers that the Petitioner filed the summons for confirmation of grant dated 29th August, 2014 without the consent of the beneficiaries of the estate of the deceased.
7. The Objector reiterated that he is one of the beneficiaries of the estate of the deceased which comprises Kericho/Cheborge/399, Kericho/Cheborge/647 and Molo South/Ikumbi Block 9/75 (Haraka Farm).
8. The Objector avers that the deceased had subdivided the estate among between the two houses as follows; Kericho/Cheborge/399 measuring 9 acres to the first house, Kericho/Cheborge/647 measuring 3.5 acres and Molo South/Ikumbi Block 9/75 (Haraka Farm) measuring 5 acres to the second house.
9. The Objector avers that after the death of his late father his step mother Sarah Chepkorir Chumo, the Petitioner herein lodged a dispute before the panel of elders and it was resolved that the decision made by the deceased in respect to settling the two houses prior to his demise was binding.
10. The Objector avers that the Petitioner obtained the grant fraudulently by making false statements and concealment of material facts.
11. The Objector faulted the Petitioner for failing to disclose that the deceased was the owner of Kericho/Cheborge/647 measuring 3.5 acres which the Petitioner and her siblings have been living on for over 48 years.
12. The Objector reiterated that he filed the instant affidavit of protest against the summons for confirmation of grant made to Sarah Chepkemoi Chumo, the Petitioner herein.
13. The Court directed that the protest be canvassed by means of viva voce evidence. The Objector availed one (1) witness in support of his case.
14. David Kiplangat Koech (Pw. 1) stated that he executed a witness statement and wished to have it adopted as his evidence in chief. He stated that he filed the affidavit of protest in opposition to the mode of distribution contained in the summons for confirmation of grant that was filed by the Petitioner herein. He reiterated that the Petitioner omitted one of the land parcels constituting the estate of the deceased.
15. He reiterated that the estate of the deceased comprises Kericho/Cheborge/399, Kericho/Cheborge/647 and Molo South/Ikumbi Block 9/75 (Haraka Farm). He reiterated that prior to his demise, the deceased had subdivided the estate between the two houses as follows; Kericho/Cheborge/399 measuring 9 acres to the first house, Kericho/Cheborge/647 measuring 3.5 acres and Molo South/Ikumbi Block 9/75 (Haraka Farm) measuring 5 acres to the second house. He reiterated that there was a land dispute in respect to the deceased's estate and the land tribunal resolved that the deceased had distributed his land prior to his demise.
16. On cross examination, Pw. 1 confirmed that he refused to sign the summons for confirmation of grant because one of the parcels constituting the estate of the deceased was missing. Pw. 1 confirmed that he refused to execute the summons for confirmation of grant because he was opposed to the proposed mode of distribution as their deceased father had already distributed his property and settled the two houses in their respective parcels.



17. Stephen Maritim arap Soi (Pw. 2) stated that he executed a witness statement and wished to have it adopted as his evidence in chief. Pw. 2 stated that Kericho/Cheborge/647 measuring 3.5 acres belonged to the deceased, he was privy to the sale transaction in relation to the said parcel, he was a witness in the written agreement between Arap Soi (the vendor) and Kipkoech Chumo (the purchaser) and the deceased herein.
18. At the end of the Objector's Case, the Petitioner/Respondent availed three (3) witnesses in support of her case. Sarah Chepkorir Chumo (Dw. 1) in her examination in chief stated she wished to have all the three properties constituting the estate of the deceased who was her husband should be divided equally.
19. She stated that she was aware that her husband had distributed his property prior to his demise and that the same resulted in a protracted land dispute.
20. On cross examination, Dw. 1 maintained that she included all the three land parcels constituting the estate of the deceased. She reiterated that the three land parcels should be distributed equally among the two houses. She confirmed that when she filed the summons for confirmation of grant, she listed all beneficiaries, however, some of the beneficiaries declined to sign the consent forms.
21. Kiptonui Sitienei (Dw. 2) stated that he executed a witness statement dated 11th December, 2018 and wished to have it adopted as his evidence in chief. In the said statement, he confirmed that the deceased was well known to him as they were neighbours and that the deceased had two wives namely Tapranytich Chumo and Sarah Chepkorir Chumo. On cross examination, Dw. 2 stated that the deceased had three parcels of land and that the Petitioner occupies land measuring about 3 acres whereas her sons occupy land in Molo measuring about 5 acres.
22. Lucas Koech (Dw. 3) stated that he executed a witness statement dated 11th December, 2018 and wished to have it adopted as his evidence in chief. On cross examination, Dw. 3 stated that he is a village elder. He stated that Tapranytich Chumo had since passed on and that the deceased had land in Kapsogut measuring about 9 acres and land in Kaptele measuring about 3.5 acres.
23. He stated that Sarah Chumo occupies the land in Kaptele and that the deceased bought another parcel of land which Sarah Chumo occupies.
24. Edward Rono (Dw. 4) stated that he executed a witness statement dated 11th December, 2018 and wished to have it adopted as his evidence in chief. On cross examination, Dw. 4 stated that the deceased had two parcels of land, the land in Molo is occupied by the sons of Sarah whereas the children of the late Tapranytich occupy the land in Kapsogut. He stated that the children of the deceased have the right to inherit the property of the deceased in equal portions.
25. At the close of the Petitioner's Case, the parties were directed to file their written submissions. At the time of writing this judgement, none of the parties had filed their submissions using the Case Tracking System, however, this court has considered the material on record.
26. Having considered the summons for confirmation of grant, the affidavit of protest and viva voce evidence tendered by the parties, I find that the sole issue for determination is whether this court should allow the protest.
27. This court, having considered the proposed modes of distribution in the summons for confirmation of grant and in the affidavit of protest, finds that the Petitioner whether inadvertently or otherwise omitted the land parcel known as Kericho/Cheborge/647 measuring 3.5 acres which constitutes the estate of the property. The Objector has furnished this Court with a certificate of search which confirms that the subject land parcel belongs to the deceased and forms part of the estate of the deceased.



28. It is the finding of this Court that the crux of the dispute between the parties lies in the mode of distribution of the deceased's estate. On one part, the Petitioner is in favour of equal distribution of the properties constituting the estate of the deceased.
29. On the other part, the Objector is adamant that the deceased had distributed his property prior to his demise and settled the various houses as follows Kericho/Cheborge/399 measuring 9 acres to the first house, Kericho/Cheborge/647 measuring 3.5 acres and Molo South/Ikumbi Block 9/75 (Haraka Farm) measuring 5 acres to the second house.
30. This Court having considered the material on record plus the evidence and viva voce evidence finds that the family held a meeting with the local administration on 22nd March, 2011 and minutes were recorded thereby confirming that the deceased had distributed his land prior to his demise and to further buttress this position the witness accounts by Dw. 2, Dw. 3 and Dw. 4 confirmed that the two houses are in occupation of their respective parcels. It is therefore the finding of this Court that the deceased had distributed his property prior to his demise and the same was captured in paragraph 6 of the affidavit of protest against confirmation of grant as follows;
- (i) Kericho/Cheborge/399 measuring 9 acres to the first house
  - (ii) Kericho/Cheborge/647 measuring 3.5 acres to the second house
  - (iii) Molo South/Ikumbi Block 9/75 (Haraka Farm) measuring 5 acres to the second house.
31. In light of the foregoing, this court finds that the affidavit of protest has merit. The mode of distribution presented by the petitioner/respondent in her affidavit filed in support of the summons for confirmation of grant is found to be untenable.
- Therefore, the grant is confirmed and the distribution of the estate be done as proposed in Paragraph 6 of the Affidavit of Protest.
32. Each party to meet their own costs.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 5<sup>TH</sup> DAY OF DECEMBER, 2024.**

.....  
**J.K. SERGON**

**JUDGE**

In the presence of:-

C/Assistant – Langat

Titus Lang'at - Beneficiary

