



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NUMBER 173 OF 2007**

**IN THE MATTER OF THE ESTATE OF REUBEN CHEPKONGA BOIT (DECEASED)**

**ESTHER JEPTARUS ROTICH.....APPLICANT**

**RULING**

1. The Chamber Summons dated 24<sup>th</sup> August 2020 brought under **Section 47 of the Law of Succession Act**, seeks the substitution of the two (2) beneficiaries who are deceased, with their children, in the Certificate of Confirmation of Grant made on 30<sup>th</sup> June 2015. Upon perusal of the Summons, I directed that the other children of the two (2) beneficiaries to file their consents to the substitution, and a letter to issue from their chief identifying them as such.

2. These documents have now been filed; the consent dated 19<sup>th</sup> February 2021 by the children of Zipporah Jemutai Tyongik (Boit) (deceased) and those of Joyce Targok Chege (Boit) (deceased) There is a letter from the Chief Sabatia Location Eldama Ravine dated 20<sup>th</sup> February 2021 identifying the children of the late Joyce Targok Chege.

3. There is also another prayer in the summons;

*That the name of Esther Rotich be inserted alongside that of Kibichi who is under age to hold parcel number Morop/Kampi ya Moto/43 in trust for the children of the deceased Shadrack Boit.*

4. This prayer suggests that Shadrack Boit has children who are all underage but the one name Kibichi is the eldest of those. The other children are not named and there is no evidence that Kibichi is the child of Shadrack Boit (deceased)

5. The Certificate of Birth for Kibichi has not been attached. The names of the other children of Shadrack Boit have not been listed as well, yet he is to hold the parcel Morop/Kampi ya Moto/Kampi ya Moto/43 *in trust for his siblings.*

6. It appears to me that the deceased Shadrack Boit had more than one child, but from these documents, only one is named as Kibichi. The other names are not given.

7. It is only in order that all the children of Shadrack Boit be named, and all their names to appear in the *title deed* for the property they are to inherit in the place of their father, together with the administrator and another.

8. To enable the distribution of the state I allow the application dated 24<sup>th</sup> August 2020 in the following terms;

***i. The properties Baringo/Kapkiamo/3, Baringo/Kapkiamo/30, Baringo Kapkiamo/22, Baringo/Kapkiamo/54 are added to the assets of the deceased, REUBEN CHEPKONGA BOIT (DECEASED and the form P & A5 be amended accordingly.***

***ii. Zipporah Jemutai Tyongik (deceased) is substituted with Caleb Kiprotich Tyongik to hold his share and that of the other beneficiaries named in the consent dated 19<sup>th</sup> February 2021 in trust for himself and for them. Their names to be listed in the certificate of confirmation of grant.***

***iii. Joyce Tarkok Chege (deceased) is substituted with Purity Kabon Chege to hold in trust for herself and her siblings their share of the estate as indicated in the letter of 20<sup>th</sup> February 2021 and consent dated 12<sup>th</sup> February 2021. The names of these beneficiaries to appear in the Amended Certificate of Confirmation of Grant.***

***iv. The property Morop/Kampi ya Moto/43 be added to the list of assets of the deceased. The same be registered in the name of the Administrator herein in trust of all the children of Shadrack Boit – the names of these children to be listed in the Certificate***

*of Confirmation of Grant so as to appear in the title documents.*

*v. The OCPD Kabartonjo be and is hereby directed to offer security to Juliko Surveyor during the subdivision of parcels Baringo/Kapkiamo/259, 219, 253 and Morop/Kampi ya Moto/Kampi ya Moto 43 according to the confirmed grant.*

vi. Costs in the cause.

**Dated, Delivered and Signed via email this 17<sup>th</sup> day of JUNE, 2021.**

**Mumbua T. Matheka**

Court Assistant Edna

Nancy Njoroge & Co. Advocates for the Applicant

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