



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KITALE**

**SUCCESSION CAUSE NO. 260 OF 2014**

**IN THE MATTER OF THE ESTATE OF KIBIRECH ARAP KOGO – DECEASED**

**DINAH ROBBI SANG .....1ST APPLICANT**

**DANIEL KIPSANG SABULEI.....2ND APPLICANT**

**BENSON KIPTOO BIRECH .....3RD APPLICANT**

**J U D G M E N T**

1. The Application dated 25/1/2016 seeks to have the grant issued on 23/7/2015 revoked. The deceased died intestate and left the following beneficiaries.

1. Chebolong Taplele Kogo – 1st Widow
2. Hellen Jepkorir Mibei – Daughter
3. Rael Jepkemboi Kogo – Daughter
4. Dinah Robby Sang – Daughter
5. Daniel Kipsang Sabula – Son
6. Mary Chepsat Kogo – 2<sup>nd</sup> Widow
7. Paul Kimurgor Kogo – Son
8. Christine Jeptemba Kogo – 3<sup>rd</sup> Widow
9. Benson Kiptoo Birech – Son
10. Annet Cherono – Daughter
11. Hilary Kibet Chirchir – Son
12. Caroline Chepchumba – Daughter
13. Zeddy Chengetich – Daughter
14. Silvia Chelagat – Daughter
15. Nimrod Kiplimo – Son.

2. All the beneficiaries are adults. The deceased left behind the only asset namely **Land parcel No. Waitaluk/Kapkoï Block 3 (Lolkirenget) 62 measuring 11.53 Ha.**

3. The 3 administrators sought to have the same subdivided into 3 houses as per their joint affidavit sworn on 25/1/2016. Benson Kiptoo

Birech however objected to the same arguing that the application was done secretly by Dinah Robby Sang, the first administrator. He attached copies of a family meeting which had given a road map on how the estate was to be distributed. The same is contained in his affidavit dated 15<sup>th</sup> January 2017.

4. That affidavit was respondent to by Dinah Sang vide her affidavit dated 9/3/2019 in which she rubbishes the same as it does not contain the wishes of the deceased.

5. The court has perused the mode of distribution suggested by both parties and save for some few discrepancies it appear that they have generally agreed . It appears that the issue was with the first house, where there was same disagreements between Rael Kogo who is said to be unmarried and stayed at home, whereas Dinah is married.

6. For the foregoing reason I order that the suit property namely **Waitaluk/Kapkoi Block 3 Lolkeringet/62** be divided as follows:-

1. **Catholic church** – 0.3 Acres
2. **Paul Koech** – 1 acre
3. **Peter Koech** – 1 acre
4. **Florence Chengetich** – 1 acre
5. **Nimrod Birech** – 2 acres
6. **Hillary Chirchir** – 2 acres
7. **Benson BiRech** – 2 acres
8. **Christine Kogo** – 5 acres
9. **Levi Mukhweso** – 2.5 acres
10. **Hellen Mibei** – 0.3 acres
11. **Xaviour Kipkosgei** – 0.5 acres
12. **Dinah Sang** – 0.5 acres
13. **Wycliffe Wanjala** – 0.1 acres
14. **Mike Kipchumba Saina** – 0.2 acres
15. **John Bett** - 2.5 acres
16. **Rael Kogo for herself and her 9 children** – 7 Acres
17. **1 Acre to be sold to offset medical expenses.**

7. This being a family dispute each shall bear their respective costs.

**Delivered, signed and dated at Kitale this 3<sup>rd</sup> day of April, 2019.**

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**H.K. CHEMITEI**

**JUDGE**

**3/04/19**

**In the presence of:**

**Obwoba holding for Khisa for the Petitioner**

**Barongo for Kigen for the Objector**

**Court Assistant – Kirong**

**Judgment read in open court.**