



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 129 OF 2015**

**IN THE MATTER OF THE ESTATE OF**

**CHELOGOI SOMICHO NGERECHI.....DECEASED**

**-AND-**

**IN THE MATTER OF SAMWEL KIPROTICH LANGAT.....PETITIONER**

**-AND-**

**IN THE MATTER OF ELIZABETH CHEPKEMOI.....OBJECTOR**

**RULING**

The Notice of Protest against the confirmation of grant of letters of administration is on the grounds that:

- (a) The petitioner failed to distribute the Estate of the Deceased equally with the intention to deny the protestor her right of inheritance
- (b) That the petitioner concealed the true facts and information that the protestor is the daughter to the deceased and should have equal shares in the estate.

When this matter came for directions on how to proceed with the hearing of the protest, the court directed that it be heard by way of viva voce evidence.

On the date of hearing which was 3<sup>rd</sup> November, 2016 the petitioner told the court that he was conceding that the objector was a daughter of the Deceased and they did not include her as a beneficiary. The reason being that she had been give Kshs.80,000/= through the area chief. The objector denied having received the said Kshs.80,000/=.

This court issued summons to the chief. The chief testified to have convened a meeting in respect to the present dispute wherein the objector was allocated 0.1 acres equivalent to Kshs.80,000/= that amount was later taken to the chief for handing over to the objector, who later refused to take it and demanded her one acre back. The amount of Kshs.80,000/= was later handed over to the petitioner one Samwel Kiprotich Langat in court.

It is instructive to note that the introduction letter from the area chief did not initially include the objector Elizabeth Ngerich Kiplangat and the wife of the Deceased. The beneficiaries had been listed as

1. Samwel Kiprotich Langat – son
2. Joseph Kimutai – Son
3. Kipkoech Elijah Langat – Son

The petitioner admits that the objector is a daughter of the deceased. She did refuse the Kshs.80,000/= she had been given through the chief as compensation. The objector maintains that the deceased had three sons and four daughters – three of whom are married but she was not. She further maintains that she has been staying in her father's land with her children but the petitioner and her brothers colluded to deny her equal share in the estate. This court is satisfied that there was concealment that the objector/protestor was a daughter of the Deceased when this succession cause was filed. Being a daughter of the deceased she is entitled to an equal share in the estate.

The confirmation of the grant in this cause is hereby rejected. The objector/protestor to be included as a beneficiary before confirmation can be entertained/granted.

Ruling delivered dated and signed this 2<sup>nd</sup> day of February 2018 in the presence of the objector and absence of the petitioners.

Court Assistant – Mr. Rotich.

**M. MUYA**

**JUDGE**

**2/2/18**