



REPUBLIC OF KENYA



KENYA LAW

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**In re Estate of Samuel Kipngeny Korir (Deceased) (Succession Cause
16B of 2022) [2025] KEHC 13268 (KLR) (29 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13268 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT BOMET

SUCCESSION CAUSE 16B OF 2022

JK NG'ARNG'AR, J

SEPTEMBER 29, 2025

IN THE MATTER OF THE ESTATE OF SAMUEL KIPNGENY KORIR (DECEASED)

BETWEEN

SELINA CHEPKURUI KORIR OBJECTOR

AND

PHILIP KIPYEGON NGENY 1ST PETITIONER

KIPRUTO KENDUIYWO NGENY 2ND PETITIONER

RULING

1. In this matter, a Grant was issued on 20th November 2000. A Certificate of Confirmation of Grant dated 6th March 2020 was thereafter issued in the joint names of the Petitioners. The beneficiaries listed in the said Certificate were Martha Cheron Korir, Grace Chepkorir Korir, Sophia Chepkorir Korir, Philip Kipyegon Ngeny, Raeli Chelangat Korir, Benard Kipngetch Kamoing, Juliana Chelangat Ngeny and Charles C. Marindany.
2. The Objector filed Summons for Revocation of Grant dated 8th February 2021. The Objector contended that the Grant was obtained fraudulently as the Petitioners concealed material information from the court.

The Objection

3. Through her Supporting Affidavit dated 8th February 2021, the Objector stated that the deceased was her father and her father had four wives. That she came from the 1st household. The Objector further stated that the Petitioners excluded the 1st household in the succession proceedings and was intent on disinherit members of the 1st household.



Response

4. The 1st Petitioner filed Grounds of Opposition dated 1st March 2021 and a Replying Affidavit dated 25th February 2021. The 1st Petitioner stated that the Objector was his step sister and that he had filed the succession proceedings with the consent of all his family members.
5. It was the 1st Petitioner's case that the family held a meeting where it was agreed that the Objector would benefit from the land registered in her mother's name i.e. Kericho/Siliobwet/40. That the parcel known as Molo South/Kapsimbeiywo Block 3/319 (Chebara B) was to be distributed among the Objector's sisters and brothers to the exclusion of the Objector. It was the 1st Petitioner's further case that the Objector was in possession of the original title deed to Molo South/Kapsimbeiywo Block 3/319 (Chebara B) and had sold part of the land to Nelson Mutai.
6. On 23rd April 2021, a Consent was entered in the Magistrate's Court in Kabarnet to dispose off the Objection through viva voce evidence. On 1st April 2022, the High Court in Kabarnet transferred these proceedings to this court for hearing and determination.
7. I shall summarise the parties' case and their respective submissions in the succeeding paragraphs.

The Objector's Case

8. Selina Chepkurui Korir testified as the 1st Objector's witness. She testified that she did not consent to the 1st Petitioner filing the succession suit. That her mother, Mama Teresia was the 1st wife of the deceased and was survived by Rael Chelangat Korir, Selina Chepkurui, Juliana Chelangat, Marcella Marindany and Bernard Kaimong. That Marcella Marindany (deceased) was given 6 acres in Transmara, Rael Chelangat was given 5 acres in Transmara and Juliana was also given a share in Transmara, all by the deceased.
9. It was Selina's testimony that she remained in Bomet where she had been living and where her mother was buried. That the land in Bomet (Kericho/Siliobwet/40) belonged to her deceased mother and was not part of the deceased's estate. It was Selina's further testimony that she should benefit from the deceased's land in Transmara as it belonged to her late father.
10. Selina testified that the alleged family meeting referred to by the 1st Petitioner was for organizing a funeral and not about distribution of land. Selina further testified that the deceased did not leave a Will.
11. It was Selina's testimony that she was excluded from the deceased's estate unlike her siblings who were included and got a share of the deceased's estate.
12. The Objector filed her written submissions on 29th May 2025. Unfortunately, the Objector uploaded only one page of her submissions where she gave the brief facts of the case and listed her issues for determination. The submissions as uploaded are not beneficial in advancing the Objector's case.

The Petitioner's Case

13. Philip Kipyegon Arap Ngeny testified as the 1st Petitioner's witness. Philip testified that the Objector was her sister. Philip testified that the family held a meeting where it was agreed that the Objector would benefit from the land registered in her mother's name i.e. Kericho/Siliobwet/40. That the parcel known as Molo South/Kapsimbeiywo Block 3/319 (Chebara B) was to be distributed among the Objector's sisters and brothers to the exclusion of the Objector.
14. It was the Philip's case that the Objector was in possession of the original title deed to Molo South/Kapsimbeiywo Block 3/319 (Chebara B) and had sold part of the land to Nelson Mutai. It was Philip's



further case that the Objector was malicious and had filed the present Application to disinherit her immediate siblings.

15. Rael Chelangat Korir testified as the Petitioner's 2nd witness. Rael testified that she was the step sister to the 1st Petitioner. That the Objector had been aware of the succession proceedings and the problem only arose when the family refused entry to the person the Objector had sold a portion of Molo South/Kapsimbeiywo Block 3/319 (Chebara B) to. Rael further testified that the Objector was not a beneficiary of Molo South/Kapsimbeiywo Block 3/319 (Chebara B).
16. It was Rael's case that the family did not have a problem with the Petitioners as they were appointed by the family and had not failed in their duties as administrators.
17. Through their written submissions dated 14th May 2025, the Petitioners submitted that at the inception of this case, the family held several meetings where it was agreed that the Petitioners would file succession proceedings. That the Objector was aware of the existence of the succession proceedings.
18. It was the Petitioners' case that the deceased had placed settled his families in their respective lands in the 1980s and there had been no complaint raised by any beneficiary. That the deceased's wishes were that the children of Martha Korir, Grave Korir and Sofia Korir (widows) were to reside and share equally the parcels of land in Transmara. It was the Petitioner's further submission that the Objector and her mother lived peacefully in KERICHO/SILIBWET/40 and by the time the Objector's mother passed away in the year 2006, the Grant had already been confirmed.
19. The Petitioners submitted that Molo South/Kapsimbeiywo Block 3/319 (Chebara B) was registered in the name of the Objector's mother and that the deceased had helped her purchase the same. The Petitioners further submitted that the deceased's households had co-existed peacefully since the deceased's lifetime. That the deceased's children had developed their respective shares and they would be prejudiced if the Grant was revoked.
20. It was the Petitioners' submission that the value of the land in Transmara was less than that of Bomet. That the acreage in the Transmara land was more but valued less and it was that fact that guided the deceased to distribute the land as he did.
21. I have gone through the record, the Summons for Revocation dated 8th February 2025, the Replying Affidavit dated 25th February 2021, the Grounds of Opposition dated 1st March 2021 and the Petitioner's written submissions dated 14th May 2025. The sole issue for my determination was whether there were sufficient grounds to revoke the Grant dated 20th November 2000.
22. Section 76 of the *Law of Succession Act* which states that: -
A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion-
 - (a) that the proceedings to obtain the grant were defective in substance;
 - (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
 - (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
 - (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-



- (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
- (ii) to proceed diligently with the administration of the estate; or
- (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.

23. *In re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] KEHC 6553 (KLR), it was stated that: -

“Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”

24. Further, in *Albert Imbuga Kisigwa v Recho Kavai Kisigwa* [2016] KEHC 1528 (KLR) it was held: -

“Power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrong doing for the court to invoke section 76 and order to revoke or annul a grant. And when a court is called upon to exercise this discretion, it must take into account interests of all beneficiaries entitled to the deceased’s estate and ensure that the action taken will be for the interest of justice.”

25. In the present case, the Objector stated that she was the daughter of the deceased and her step brothers (Petitioners) did not obtain her consent and excluded her while filing the current proceedings. She further stated that she objected to the mode of distribution contained in the Certificate of Confirmation of Grant dated 6th March 2020. On the other hand, the Petitioners stated that the Objector was aware of the succession proceedings and was left out of the distribution of the deceased’s estate by virtue of a family meeting that distributed the deceased’s land to her exclusion. The Petitioners



stated that the Objector was benefiting from the parcel known as Molo South/Kapsimbeiywo Block 3/319 (Chebara B).

26. It was an undisputed fact that the Objector was the step sister of the Petitioner, a fact that both Petitioners' witness admitted in their testimony. I have also noted that both Petitioners' witnesses corroborated the Objector's testimony that the Objector lived on Molo South/Kapsimbeiywo Block 3/319 (Chebara B) and the said parcel was registered in the name of the Objector's mother. This meant that Molo South/Kapsimbeiywo Block 3/319 (Chebara B) was not part of the deceased's estate.
27. I have looked at the Minutes of the family meeting that the Petitioners relied on in excluding the Objector as a beneficiary of the deceased's estate and I have noted that the Objector was not present in the said meeting, a fact that the Objector raised in her testimony. The meeting cannot be said to be a consensus if the main subject of the meeting was absent. In my view, it was an imposition.
28. Having said that, I have also looked at the succession proceedings from its inception to the Certificate of Confirmation of Grant dated 6th March 2020 and I have noted that the Objector had been omitted. The Petitioners having admitted that the Objector was their sister, the Objector was a bona fide beneficiary of the deceased's estate and as I have noted above, the land, Molo South/Kapsimbeiywo Block 3/319 (Chebara B) that the Petitioners purported to distribute to the Objector did not form part of the deceased's estate. By this very fact, the Petitioners fell foul to the provisions of section 76 of the [Law of Succession Act](#).
29. Before I pen off, I have noted that the Petitioners raised the issue of the alleged sale of part of Molo South/Kapsimbeiywo Block 3/319 (Chebara B) where they resided by the Objector. This court is devoid of the jurisdiction to deal with this issue and it should be raised in the appropriate forum. What was for determination by this court was whether the Grant was obtained in an honest manner or not.
30. Flowing from the above, it is my finding that the Petitioners concealed the fact that the Objector was a beneficiary of the deceased's estate. Thus, the Grant can only be classified as defective as contemplated under section 76 of the [Law of Succession Act](#).
31. In the end, the Grant dated 20th November 2000 is revoked. For avoidance of doubt, the Certificate of Confirmation of Grant dated 6th March 2020 is declared null and void.

RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 29TH DAY OF SEPTEMBER, 2025.

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HON. JULIUS K. NG'ARNG'AR
JUDGE

Ruling delivered in the presence of:

Siele/Susan (Court Assistants)

Kenduiywo for the Petitioner

Objector: present

