



In re Estate of the Late Cheelgo arap Limo (Deceased) (Succession Cause 74 of 2001) [2025] KEHC 13860 (KLR) (6 October 2025) (Judgment)

Neutral citation: [2025] KEHC 13860 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 74 OF 2001
RN NYAKUNDI, J
OCTOBER 6, 2025**

IN THE MATTER OF THE ESTATE OF THE LATE CHEELGO ARAP LIMO (DECEASED)

BETWEEN

**WILLIAM KIPKOSGEI CHEELGO 1ST PETITIONER
ANDREW KIPTOO LIMO 2ND PETITIONER**

AND

**ISAYA TIROP LIMO 1ST BENEFICIARY
ALICE LIMO 2ND BENEFICIARY
MARTHA TERIKI LIMO 3RD BENEFICIARY
PENINAH JEPKEMBOI LIMO 4TH BENEFICIARY
ABISAAC LIMO 5TH BENEFICIARY
SAMSON KIBET LIMO 6TH BENEFICIARY
HENRY KIPKURUI LIMO 7TH BENEFICIARY
HILLARY KIPCHUMBA KIPKOECH (SUING AS LEGAL REPRESENTATIVE
OF MOSES KIPKOECH LIMO) 8TH BENEFICIARY
ANNE LIMO (SUING AS LEGAL REPRESENTATIVE OF SAMUEL KIMUTAI
LIMO) 9TH BENEFICIARY
DAVID KIBET LIMO 10TH BENEFICIARY
MARK KIPCHIRCHIR LIMO 11TH BENEFICIARY
REBECCA CHEBET (SUING AS LEGAL REPRESENTATIVE OF JANE
JERUIYOT LIMO) 12TH BENEFICIARY**



LUCKY BIWOTT (SUING AS LEGAL REPRESENTATIVE OF JAQUINE
JEROTICH LIMO) 13TH BENEFICIARY

AND

ERICK KIPROGONG CREDITOR
SAMMY MUTAI CREDITOR
ESTHER MASAI CREDITOR
JENNIFER CHEPKURUI CREDITOR
JAMES KIMAIYO CHEROP CREDITOR
EMMANUEL K KIPROP CREDITOR
KIZITO CHESUNDO CREDITOR
JOSEPH CHEPKIRUI CREDITOR
SYLVESTER KIBOR CREDITOR
DAVID CHEROP CREDITOR
KOBILLO CHEPKEITANY CREDITOR
MARY KIMOI KIMANYIM CREDITOR
KIPKEBUT ROTICH CREDITOR
DANIEL KEMBOI CREDITOR
JACOB KIMARU CREDITOR
SAMUEL KIMUTAI KIBII CREDITOR
LUKA KIGEN CREDITOR
JOHN KIGEN CREDITOR
JONATHAN KIPLAGAT CREDITOR
BEATRICE SAWE CREDITOR
ROSE J MICAH CREDITOR
LUKE KIGEN CREDITOR
RUTH CHEBOI CREDITOR
SARAH JEMUTAI KIPTOO CREDITOR
DAVID CHEROP CREDITOR
PRISCILLAH CHEBOI CREDITOR
JEPKOECH KWAMBAI CREDITOR
ACK KAPTAGAT PARISH CREDITOR
BEATRICE CHERUIYOT SAWE CREDITOR
SAMMY MUTI CHUMA CREDITOR
EVALINE BALIAT CREDITOR



NANCY JEBITOK BIRIR	CREDITOR
WILLIAM K KIPTOO	CREDITOR
JOHN KIPROTICH KIGEN	CREDITOR
ROSE J BIWOTT'	CREDITOR
LOISE J. ROTICH	CREDITOR
EDWIN BIWOTT'	CREDITOR
ESTHER SAWE	CREDITOR
RUTH J DANIEL	CREDITOR
MELVIN JEPKOSGEI KIMAIYO	CREDITOR
MARY JEMUTAI BWARE	CREDITOR
GIDEON KIPKURUI KIMAIYO	CREDITOR
ELDORET WATER & SANITATION COMPANY	CREDITOR
IRENE CHEBET KIMUTAI	CREDITOR

JUDGMENT

1. The matter herein relates to the estate of Chelelgo Arap Limo who died on 4th February, 2001 at Kipsinende. According to the petition for administration as lodged by William Kipkosgei Chelelgo and Andrew Kiptoo Limo, the deceased left behind the following beneficiaries:
 - a. Siakwei Tapyabii Limo (1st wife)
 - b. Martha Limo (2nd Wife)
 - c. William Kipkosgei Chelelgo (son)
 - d. Samuel Kimutai Limo (son)
 - e. Samson Kibet Limo (son)
 - f. Moses Kipkoech Limo (son)
 - g. Andrew Kiptoo Limo (son)
 - h. David Kibet Limo (son)
 - i. Henry Kipkurui Limo (son)
 - j. Mark Kipchirchir Limo (son)
 - k. Isaiah Tirop Limo (son)
 - l. Jane Jeruiyot Limo (daughter)
 - m. Abisaac Jelagat Limo (daughter)
 - n. Jaquiline Jerotich Limo (daughter)
 - o. Alice Jemutai Limo – daughter)



- p. Penina Jepkoemol Limo (daughter)
2. The petition equally indicated that the deceased left the following properties behind:
- a. LR. No. XXXXXX Uasin Gishu District.
 - b. Eldoret Municipality/block 6/65
 - c. Eldoret Municipality/block 7/13
 - d. Uasin Gishu/kaptagat/211
 - e. Mosop/chepkorio/315
 - f. Kiluka Farm – 117 Shares From Kimani Karanja
 - g. Centre Plot at Chepkorio T. Centre (in Partnership With Kipkalia Chepkeitany)
 - h. 5 Acres Bought From The Late Cheptum Changwony
 - i. KAL 095E – Suzuki Grand Vitara – Green – 2000 Cc
 - j. 12 Cows At Plot XXXXXX
 - k. 36 Months Rent – Eld Mun. For Land Occupation.
 - l. Shares In Kenya Commercial Bank & Barclays Bank.
3. The petition also highlighted that the deceased did not have any liabilities as at the time of his death. There being no objection with the lodged petition, the Grant was issued to William K. Chelelgo and Andrew K. Limo on 17th May, 2001. It is the said Grant that the petitioners wish to have confirmed vide summons for confirmation dated 30th September, 2022. In support of the summons, the petitioners swore an affidavit in which they made the following averments and proposed a mode of distribution which was amended as at 26th May, 2025:
- a. That the deceased died intestate and had the following surviving him/her: -
 - i. Siakwei Tapyabii Limo (Deceased).
 - ii. Martha Limo (Widow).
 - iii. William Kipkosgei Chelelgo ID No. XXXXXXXXX (Son).
 - iv. Samuel Kimutai Limo (Deceased) represented by his wife Ann Jeruto Limo I/D No. XXXXXXXXX.
 - v. Samson Kibet Limo (Son).
 - vi. Moses Kipkoech Limo ID. No XXXXXXXXX (Son).
 - vii. Andrew Kiptoo Limo ID. No XXXXXXXXX (Son).
 - viii. David Kibet Limo (Son).
 - ix. Henry Kipkurui Limo (Son).
 - x. Mark Kipchirchir Limo ID. No. XXXXXXXXX (Son).
 - xi. Isaiah Tirop Limo (Son).



- xii. Jane Jeruiyot Limo (Deceased) represented by Rebecca Chebet ID No. XXXXXXXX
 - xiii. Abisaac Jelagat Limo (Daughter).
 - xiv. Jackline Jerotich Limo Id No. XXXXXXXX (Daughter).
 - xv. Alice Jemutai Limo (Daughter).
 - xvi. Penina Jepkemoi Limo (Daughter).
- b. That no application for the provisions for dependants is pending save for the revocation application dated 27-07-2020 and neither was the deceased survived by any other dependants being maintained by him immediately prior to his death save for those disclosed in the above paragraph.
 - c. That we are advised by our Advocate on record W.K.Kalya Esq which information we verily believe to be true that pursuant to Section 83 (d) of the Succession Act we have a duty to ascertain and pay, out of the estate of the deceased, all his debts.
 - d. That in exercise of our statutory duty we have investigated and ascertained the following 41 named-persons are liabilities to the estate in regards to the property known as LR. No. XXXXXX (Strawbag) and do submit their particulars for the Hon. Court consideration.



Name	Id No.	Acerage
Kibor Kimaiyo	XXXXXXXX	0.1500 Ha
Esther Masai	XXXXXXXX	0.1450 Ha
Jennifer Chepkurui	XXXXXXXX	0.1650 Ha
James Kimaiyo Cherop	XXXXXXXX	0.1634 Ha
Emmanuel K Kiprop	XXXXXXXX	0.1520 Ha
Kizito Chesundo	XXXXXXXX	0.1520 Ha
Joseph Chepkuurui	XXXXXXXX	2.8710 Ha
Public Utility	-	0.7650 Ha
Sylvester Kibor	XXXXXXXX	0.2072 Ha
David Cherop	XXXXXXXX	0.2176 Ha
Kosilo Chepkeitany	XXXXXXXX	0.1980 Ha
Mary Kimoi Kimanyim	XXXXXXXX	0.3568 Ha
Kipkebut Rotich	XXXXXXXX	0.2070 Ha
Daniel Kemboi	XXXXXXXX	0.2070 Ha
Jacob Kimaru	XXXXXXXX	0.2070 Ha
Erick Kipropong	XXXXXXXX	0.2070 Ha
Samuel Kimutai Kibii	XXXXXXXX	0.2070 Ha
Luka Kigen	XXXXXXXX	0.2070 Ha
John Kigen	XXXXXXXX	0.2070 Ha
Jonathan Kiplagat	XXXXXXXX	0.3948 Ha
Beatrice Sawe	XXXXXXXX	0.1925 Ha
Rose J Micah	XXXXXXXX	0.2054 Ha
Luke Kigen	XXXXXXXX	0.2054 Ha
Ruth Cheboi	XXXXXXXX	0.2054 Ha



Sarah Jemutai Kiptoo	XXXXXXXX	0.7200 Ha
David Cherop	XXXXXXXX	0.366 Ha
Gideon Kipkurui Kimaiyo	XXXXXXXX	0.1830 Ha
Mary Jemutai Bware	XXXXXXXX	-
Priscillah Cheboi	XXXXXXXX	0.1590 Ha
Jepkoech Kwambai	XXXXXXXX	0.1590 Ha
Ack Kaptagat Parish	31	0.1590 Ha
Beatrice Jeruiyot Sawe	XXXXXXXX	0.1020 Ha
Sammy Mutai Chuma	XXXXXXXX	3.9580 Ha
Evaline Baliat	XXXXXXXX	0.6732 Ha
Nancy Jebitok Birir	XXXXXXXX	1.1340 Ha
William K Kiptoo	XXXXXXXX	0.4320 Ha
John Kiprotich Kigen	XXXXXXXX	0.1800 Ha
Melvin Jepkosgei Kimaiyo	XXXXXXXXXX	0.1760 Ha
Loise J. Rotich	XXXXXXXXXX	0.2024 Ha
Edwin Biwott	XXXXXXXXXX	0.2024 Ha
Esther Sawe	XXXXXXXXXX	0.2024 Ha
Ruth J Daniel	XXXXXXXXXX	0.2024 Ha

- e. That in exercise of our statutory duty we have investigated and ascertained one Irene Chebet Kimutai of I/D No. XXXXXXXX is a liability to the estate in regard to the property known as Mosop/Chepkorio/ 315 measuring 1.5 acres.
- f. That no estate duty or government rates is due and payable in respect of the estate of the deceased since we have paid out of the estate rental income all estate duty and government rent and rates for the period 2001-2022.
4. In the amended mode of distribution dated 26th May, 2025, the Petitioners proposed that the estate be distributed in accordance with the schedule hereunder:



No.	Property	Heir	Share
Eldoret Municipality Block 6/65 Measuring 0.0465 Ha	William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet legal representative of Jane Jeruiyot Limo (Deceased), Abisaac Jelagat Limo, Lucky Biwott Limo legal representative of Jaqueline Jerotich Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Tenants in common	
Eldoret Municipality Block 6/65 Measuring 0.0465 Ha	Martha Teriki Limo	Life interest in 1/15 % of the income	
Eldoret Municipality Block 7/98 Measuring 0.0697 Ha	William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Andrew Kiptoo Limo, David Kibet Limo, Henry	Tenants in common	



	Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet legal representative of Jane Jeruiyot Limo (Deceased), Abisaac Jelagat Limo, Lucky Biwott Limo legal representative of Jaquiline Jerotich Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	
Eldoret Municipality Block 7/98 Measuring 0.0697 Ha	Martha Teriki Limo	Life interest in 1/15 % of the income
Eldoret Municipality Block 7/12 Measuring 0.0697 Ha	William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet legal representative of Jane Jeruiyot Limo (Deceased), Abisaac Jelagat Limo, Lucky Biwott Limo legal representative of Jaquiline Jerotich Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Tenants in common



Eldoret Municipality Block 7/12 Measuring 0.0697 Ha	Martha Teriki Limo	Life interest in 1/15 % of the income
Kenya Commercial Bank Shares No. 1, 814 Share Account No. XXXXXXXXXX	Martha Teriki Limo	Whole
Absa bank shares No. 12660, share account no. 29271	Martha Teriki Limo	Whole
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Andrew Kiptoo Limo	14.80 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Japheth Henry Kipkurui Limo	14.80 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Isaiya Tirop Limo	14.80 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Martha Teriki Limo. Upon her death the property to vest in equal shares upon Alice Limo, Peninah, Jepkemboi Limo and Abisaac Limo	Life interest in 7.40 Ha. Alice Limo, Peninah, Jepkemboi Limo and Abisaac Limo
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Samson Kibet Limo	14.80 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Sammy Kimutai Limo	14.80 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	William Kipkosgei Chelelgo	3.65 acres
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Anne Limo legal representative of	3.65 acres



	Samuel Kimutai Limo (Deceased)	
LR No. XXXXX (IR No.19086) Measuring 349 Acres	Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	3.65 acres
LR No. XXXXX (IR No.19086) Measuring 349 Acres	Mark Kipchirchir Limo	3.65 acres
LR No. XXXXX (IR No.19086) Measuring 349 Acres	David Kibet Limo	3.65 acres
Mosop/ Chepkorio/315 measuring 5.9 Ha	Mark Kipchirchir Limo	3.31 acres
Mosop/ Chepkorio/315 measuring 5.9 Ha	William Kipkosgei Chelelgo	2.96 acres
Mosop/ Chepkorio/315 measuring 5.9 Ha	David Kibet Limo	2.96 acres
Mosop/ Chepkorio/315 measuring 5.9 Ha	Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo	2.96 acres
Chepkorio Market Centre	Alice Jemutai Limo	Whole
1.25 Ha purchased from Kimani Karanja (Kituka Farm)	William Kipkosgei Chelelgo and Andrew Kiptoo Limo	Whole in trust for Philip Kiprono Limo and his children (gift <i>inter vivos</i> by the deceased)
Tractor John Deere KLF	Martha Teriki Limo, Samson Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah	Whole



	Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	
Tractor John Deere KSA	William Kipkosgei Chelelgo Samuel Kimutai Limo (Deceased) represented by his wife Anne limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Whole
Suzuki 800Cc KYG XXX	Andrew Kiptoo Limo	Whole
Kanyego Wholesalers Shop	William Kipkosgei Chelelgo	Whole
Harrow Disc John Deere	William Kipkosgei Chelelgo Anne Limo legal representative of Samuel Kimutai Limo (Deceased), Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Whole
Plough Massey Ferguson	Martha Teriki Limo, Samson Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Whole



Fork tiller	William Kipkosgei Chelelgo Anne Limo legal representative of Samuel Kimutai Limo (Deceased), Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Whole
Metal High Sided Trailer	William Kipkosgei Chelelgo Anne Limo legal representative of Samuel Kimutai Limo (Deceased), Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Whole
Maize Shelter	Martha Teriki Limo, Samson Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Whole
Maize Sheller	Martha Teriki Limo, Samson Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Whole
Maize Miller	Martha Teriki Limo, Samson Kibet Limo,	Whole



	Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	
Funds in bank accounts and rental income from Eldoret Municipality Block 7/12 Ha, Eldoret Municipality Block 6/65 and Eldoret Municipality Block 7/98 measuring 0.0697 Ha	M/s Kalya & Company Advocates, M/s Geoffrey Otieno & Company, Advocates, M/s Cheron J & Co, Advocates, M/S C.F.Otieno & Co. Advocates	To be paid in accordance with the <u>Advocates Remuneration (Amendment) Order, 2014</u>
Balance of funds in all estate accounts after payment of legal fees and statutory obligations	Martha Teriki Limo, William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet legal representative of Jane Jeruiyot Limo (Deceased), Abisaac Jelagat Limo, Lucky Biwott Limo legal representative of Jaqueline Jerotich Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Shared equally



LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Kibor Kimaiyo	0.1500 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Esther Masai	0.1450 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Jennifer Chepkurui	0.1650 ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	James Kimaiyo Cherop	0.1634 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Emmanuel K Kiprof	0.1520 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Kizito Chesundo	0.1520 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Joseph Chepkurui	2.8710 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Public Utility	0.7650 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Sylvester Kibor	0.2072 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	David Cherop	0.2176 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Kobilo Chepkeitany	0.1980 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Mary Kimoi Kimanyim	0.3568 Ha



LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Kipkebut Rotich	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Daniel Kemboi	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Jacob Kimaru	0.2070 ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Erick Kipropong	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Samuel Kimutai Kibil	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Luka Kigen	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	John Kigen	0.2070 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Grace Chepkogei Chumo	0.3948 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Beatrice Sawe	0.1925 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Rose J Micah	0.2054 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Luke Kigen	0.2054 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Ruth Cheboi	0.2054 Ha



LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Sarah Jemutai Kiptoo	0.7200 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	David Cherop	0.366 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Priscillah Cheboi	0.1590 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Jepkoech Kwambai	0.1590 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Church Commissioner of Kenya as trustees of Lengut Women Group/ ACK Kaptagat Parish	0.1590 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Beatrice Jeruiyot Sawe	0.1020 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Sammy Mutai Chuma	3.9580 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Evaline Baliat	0.6732 ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Nancy Jebitok Birir	1.1340 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	William K Kiptoo	0.4320 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	John Kiprotich Kigen	0.1800 ha



LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Rose J Biwott	0.1760 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Loise J. Rotich	0.2024 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Edwin Biwott	0.2024 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Esther Sawe	0.2024 Ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Ruth J Daniel	0.2024 ha
LR No. XXXXXX (IR No.19086) Measuring 349 Acres	Eldoret Water & Sanitation Company	31.79 Ha
Uasin Gishu / Kaptagat/ 211 Measuring 39.50 Ha	Eldoret Water & Sanitation Company	10.50 Ha
Mosop/ Chepkorio/315 measuring 5.9 Ha	Irene Chebet Kimutai	1.5 acres
Uasin Gishu/ Kaptagat/211 Measuring 39.50 Ha	Mark Kipchirchir Limo	10.04 Ha
Uasin Gishu/ Kaptagat/211 Measuring 39.50 Ha	William Kipkosgei Chelelgo	9.67 Ha
Uasin Gishu/ Kaptagat/211 Measuring 39.50 Ha	David Kibet Limo	9.67 Ha
Uasin Gishu/ Kaptagat/211 Measuring 39.50 Ha	Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	10.08 Ha



Uasin Gishu/ Kaptagat/211 Measuring 39.50 Ha	Mark Kipchirchir Limo	10.04 Ha
Centre Plots No. 43	Church Commission of Commission in trust of ACK St Barnabas Church Kormoto	0.432 Ha
Centre Plots No.44	David Kibet Limo and Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	0.1890 Ha
Centre Plots No.45	William Kipkosgei Chelelgo and Anne Limo legal representative in the estate of Samuel Kimutai Limo (Deceased)	0.2170 Ha as tenants in common
Centre Plots No.46	Isaya Tirop Limo and Henry Kipkirui Limo	0.1890 Ha as tenants in common
Centre Plots No.47	Samson Kibet Limo and Andrew Kiptoo Limo	0.2100 Ha as tenants in common
Centre Plots No.48	Mark Kipchirchir Limo and Julius Kipkorir Chelelgo	0.3704 Ha as tenants in common
Strawbag Shop No.49 (Room 1 & 2)	Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	Cooperative Society Shop
Strawbag Shop No.2 (Room 3 &4)	David Kibet Limo	Drycleaners shop
Strawbag Shop No3. (Room 5&6)	Anne Limo legal representative of	Bridal Shop



	Samuel Kimutai Limo (Deceased)	
Strawbag Shop No.4	Martha Teriki Shop	Haron Kiptoo Shop
Strawbag Shop No.5	Martha Teriki Shop	Teriki Shop
Strawbag Shop No.6 (Room 7 & 8)	William Kipkosgei Limo	Cooperative shop
Strawbag Shop No.7	Henry Kipkirui Limo	Julia Shop
Strawbag Shop No.8	Samson Kibet Limo	Sena Chemist
Strawbag Shop No.9.	Isuya Tirop Limo	Tirop Store
Strawbag Shop No.10	Andrew Kiptoo Limo	Malot Stores
Strawbag Shop No.11	Mark Kipchirchir Limo	Malot Shop
Suzuki Vitara KAL 095E	William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet legal representative of Jane Jeruiyot Limo (Deceased), Abisaac Jelagat Limo, Lucky Biwott Limo legal representative of Jaquiline Jerotich Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	To be valued, sold and proceeds shared equally



Hotel Plot (Plot No. 1061) measuring approximately 2.5 acres to be excised from LR No. XXXXX (IR No.19086) Measuring 349 Acres	William Kipkosgei Chehelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of	To be valued, sold and proceeds shared equally
Rooms 1 to 13 and Room 29	House No.1 Martha Teriki Limo, Samson Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	Tenants in common
Rooms 14 to 28	House No. 2 William Kipkosgei Chehelgo Anne Limo legal representative of Samuel Kimutai Limo (Deceased), Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Tenants in common

5. The beneficiaries through Isaya Tirop Limo filed an affidavit in protest against confirmation of Grant sworn on 1st December, 2022 and a further affidavit in protest as sworn by Hillary Kipchumba Kipkoech on 16th June, 2025. In the affidavit sworn on 1st December, 2022 the Isaya Tirop deposed as hereunder:
- a. That my late father Chehelgo Limo passed on the 4th February 2001.
 - b. That subsequently my family and I initiated the succession proceedings of my late father through the current administrators William K. Chehelgo and Andrew K. Limo.
 - c. That the said William K. Chehelgo and Andrew K. Limo were issued with the grant of letters of administration intestate on the 17th May 2001.
 - d. That it is now over twenty-one (21) years since the aforesaid grant of letters of administration were issued.



- e. That the administrators have not taken any single positive step in the administration of the estate other than applying for the grant of letters of administrative intestate which were issued on the 17th May 2001.
- f. That the administrators took over the management of the estate of our late father even before the grant of letters of administration were issued and have continued to do so to date.
- g. That the beneficiaries of the estate in their wisdom and for the ease of accountability and transparency unanimously agreed to incorporate the company Chelego Arap Limo & Co. Ltd the administrators being the Directors of the said Company.
- h. That the Applicants are making this Application to protest the confirmation of grant on the following basis:
 - i. That the Petitioner has left out and failed to render a proper account of some of the deceased's income in form of rent collected from the following properties: Eldoret Municipality Block 6/65, Eldoret Municipality Block 7/12 And Eldoret Municipality Block 7/98. The premises earn a total monthly rent of approximately Kshs. 4,000,000/-. For the 21 years we are talking of approximately 960 Million Shillings which have not been accounted for as part of the financial assets of the deceased.
 - ii. That the Petitioner has in the mode of distribution of immovable properties left out the following beneficiaries on account of being girls: Peninah Jepkemoi- Limo Daughter, Alice Jemutai Limo- Daughter, Abisaac Jelagat Limo- Daughter, Jackline Jerotich Limo – Daughter, Jane Jeruiyot Limo – Daughter
- i. That the Administrators have a legal obligation to preserve the estate of deceased and to administer it in a way that is in compliance with the law as espoused under Section 83 of the Laws of succession Act. The personal Administrators in this case have defied the law and their actions constitute an illegality.
- j. That the Administrators are dealing with the deceased's property as their property yet they are only required by law to hold it in trust for the benefit of the estate of the deceased and subsequently the beneficiaries.
- k. That the Administrators have a duty pursuant to section 83(h) of the *Laws of Succession Act* to produce to this Honourable Court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account when called upon by the Court or on a party's Application.
- l. That the Administrators have failed to include in the List of Assets of the deceased the income in form of rent that is being generated from Eldoret Municipality Block 6/65, Eldoret Municipality Block 7/12 And Eldoret Municipality Block 7/98.
- m. That for twenty-one years the Administrators have been collecting rent of approximately 960 Million from the above-mentioned buildings and have failed to disclose this fact to this Honourable Court. This goes against one of the duties of personal representatives who are supposed to collect all the free properties of the deceased and account for the same to the Court and to the other beneficiaries.



- n. That the premises earn approximately Kshs. 4,000,000.00 per month. The approximate total amount for the 21 years is approximately 960 Million. This is a substantial amount of money that should be accounted for the twenty-one years.
- o. That all the beneficiaries and I are in the dark of how much rent has been collected since 2001 to date.
- p. That the administrators have never laid to us the account of how they have been collecting rent, utilizing the income, paying overheads, utilities, taxes, management and preserving the net income.
- q. That efforts to inquire about the income has been met with resistance, non-cooperation and being side-lined by the Administrators.
- r. That all the efforts by the other beneficiaries of the estate to draw any benefits from the rental income generated by the estate in a structured manner has been thwarted and or dismissed by the Administrators.
- s. That the absence of accounts infers the wastage of the estate and that if this honourable Court does not intervene then the same shall be wasted fully.
- t. That the Administrators have failed in their duty to complete the administration of the estate by declining to apply for the confirmation of the grant of letters of administration intestate issued to them for twenty-one (21) years and counting.
- u. That the Administrators incorporated a company by the name Chelego Arap Limo & Co. Ltd on 19th July 2001 to aid in the administration of the estate of the deceased. The Administrators who are Directors of the Company have failed to comply with their duty of giving proper book of accounts as pertains the properties and how they have been doing business. Their actions amount to an illegality as they are required by law to be filling statutory returns and tax returns which they have not.
- v. That the surviving widow of my late father one Martha Teriki Limo the 3rd Applicant who is ailing has had to depend on handouts and tokens from the other beneficiaries of the estate for the facilitation of her movement, subsistence and maintenance of her matrimonial home.
- w. That the administrators have not called a single meeting of the estate or given directions to the estate on the way forward.
- x. That it has become manifestly clear to the other beneficiaries and I that:
 - i. The administrators have failed to deliver on their mandate and oath of office unless they are forced to.
 - ii. The administrator's refusal to be transparent in the management of the estate has raised real danger of mismanagement and meddling in the estate.
 - iii. The administrators' refusal to provide accounts of the said properties amounts to an action of disinheriting/failing to give beneficiaries their lawful shares.
- y. That it is therefore imperative that the Court addresses and Orders for the true accounts resulting from the properties stated above before going ahead to confirm the said grant.
- z. That the actions of the Administrators amount to concealment of information which would aid the Court in arriving at a just determination which equally benefit all the beneficiaries.



- aa. That it is also imperative that the administrators render a just and true accounts of the estate during their administration and be held to account for any part of the estate that cannot be accounted for. The accounts should entail the following: -
 - i. Records of the tenants for each month and the amounts paid from the 17th May 2001 to date supported by documents.
 - ii. How the funds so collected have been dealt with from the 17th May 2001 to date supported by documents.
 - iii. Proof of the existence of money if any.
 - ab. That in the intervening period (short term) and before the Court determines the instant application my co-applicants and I propose that the advocates on record open a joint account into which the rental income will go into. The advocates will then utilize the funds to: -
 - i. Pay out all the overheads incidental to the running of the properties.
 - ii. Pay all the taxes incidental to the rent collected.
 - ac. That pending the hearing of the cause, my co-protectors and I propose that an agent be appointed as the estate agents to collect the rent and deal with the rent as follows;
 - i. Pay out all the overhead expenses incidental to the running of the properties.
 - ii. Pay all the taxes incidental to the rent collected.
 - iii. Pay itself estate management fees.
 - iv. Deposit the net rental income in a joint account to be held by the advocates on record or the new administrators appointed subject to such orders the Court will give.
 - ad. That the petitioner has left out some of the beneficiaries in its proposed mode of distribution and it is more than a coincidence that the left out beneficiaries are ladies.
 - ae. That our laws have the principles, equality and non-discrimination deeply entrenched and non-inclusion of the beneficiaries on account of them being ladies clearly goes against those principles.
 - af. That the Court should ensure that the ladies are catered for in their father's estate by calling for a revision of the Petitioner's proposed mode of distribution before Confirming the said grant.
6. The same deponent Isaiah Tirop Limo swore another affidavit with averments more less the same on 10th January, 2025 stating as follows:
- a. That our late father Chehelgo Limo passed on the 4th February 2001.
 - b. That subsequently my family and I initiated the succession proceedings of my late father through the current administrators, the Petitioners herein being William K. Chehelgo and Andrew K. Limo.
 - c. That the said William K. Chehelgo and Andrew K. Limo were issued with the grant of letters of administration intestate on the 17th May 2001.
 - d. That it is now over twenty-three (23) years since the aforesaid grant of letters of administration were issued.



- e. That the administrators have not taken any single positive step in the administration of the estate other than applying for confirmation of the grant of letters of administrative intestate which were issued on the 17th May 2001.
- f. That the administrators took over the management of the estate of our late father even before the grant of letters of administration were issued and have continued to do so to date.
- g. That the administration of the administrators herein has been characterized by opaqueness, high handedness, arrogance and deliberate and intentional decision not to comply with express provision of the law relating to the grant of letters of administration issued to them.
- h. That we have since established that a company named Cheelgo Arap Limo and Company Limited was incorporated on 19th July 2001 following the demise of our late father at the behest of the Petitioners to the exclusion of all the other beneficiaries, to take over the management of the Estate in respect of which no accounts have ever been rendered by the Petitioners.
- i. That the Petitioners have been collecting rent from three commercial properties within Eldoret town comprised in all those properties known as Eldoret Municipality Block 6/65, Eldoret Municipality Block 7/12 And Eldoret Municipality Block 7/98.
- j. That since the administrators took over the management of the above three premises they have never explained to the family how much rent is collected from the premises on a monthly basis and how the rental income is utilized and or saved and or preserved.
- k. That all the beneficiaries and I are in the dark of how much rent has been collected since 2001 to date.
- l. That the administrators have been defensive, arrogant, opaque and completely unwilling to divulge any information regarding the rental income collected.
- m. That the surviving widow of my late father one Martha Teriki Limo who is ailing has had to depend on the other beneficiaries of the estate for her subsistence, house repairs and other needs.
- n. That all the efforts by the other beneficiaries of the estate to draw any benefits from the rental income generated by the estate in a structured manner has been thwarted and or dismissed by the administrators.
- o. That the administrators have not called a single meeting or given directions to the estate on the way forward of the estate.
- p. That we are apprehensive that owing to the continued refusal by the Petitioners/Respondents to account in relation to the administration of the Estate, the Estate has substantially been wasted away and not much may be left to keep for the benefit of the beneficiaries.
- q. That the Audit Report filed in Court by Maswai Rono & Associates (CPA) on 21st February 2024 hopelessly fails to render a full account of the Estate for the entire period of administration since it only covers the period of five (5) years being 2018 to 2022 and therefore falls short of its objective.
- r. That the said report failed to address numerous concerns regarding the management of the Estate which are enumerated below: -



- i. The number of units for each property have not been indicated. This ought to have been indicated on the report so as to ascertain the occupancy rate at a given time and also estimate the average income expected.
 - ii. The report fails to give an account of the number of bank accounts operated by the company and who are the respective signatories.
 - iii. The movement of proceeds and closing balances in respect of the bank accounts are not disclosed in the report.
 - iv. While the report alludes to rent payments via M-pesa, it fails to indicate to whom the M-pesa account belongs to and how the funds were to be accounted for.
 - v. Regarding collections made in cash, the report fails to indicate whether the same would be banked.
 - vi. The report failed to address the Company's policy regarding deposits on whether the same was applicable upon commencement of tenancy and whether the same were refundable upon termination. To this end the report does not capture the extent of liability in this respect.
 - vii. The report also failed to highlight any major capital injections towards renovations if at all any were undertaken.
 - viii. The report highlights operating expenses amounting to Kshs. 60,995,125/= but does not break down the same to specific vote heads.
 - ix. The report highlights ineligible expenses but indicates that the same were done on the basis of entitlement and trust and that there was no ulterior motive. This remains a matter for the Court to determine whether the same were proper in the circumstances.
 - x. The report fails to address any pending liabilities and receivables for the company.
 - xi. The report failed to cover the period of administration due to the limited scope of documentation. The Administrators should be tasked to render an account for the period unaccounted for.
 - xii. The report shows no estate's projects (developments), savings or shares over the period in question.
 - xiii. The report unmasks a manager inside the singular roles of the administrators without express family involvement. A position unknown to family as to its establishment, functions and its expending.
- s. That it has become manifestly clear to the other beneficiaries and I that: -
- i. The administrators have failed to deliver on their mandate and oath of office and are therefore unfit to continue being the administrators of the estate.
 - ii. The administrator's refusal to be transparent in the management of the estate has raised real danger of mismanagement and meddling in the estate.
- t. That it is therefore imperative that the grant of letters of administration intestate issued to the administrators should in the interest of justice be revoked and not confirmed, should they fail to render true accounts of the estate in relation to the administration of the estate.



- u. That the administrators have not rendered any just and true accounts of the estate to date.
 - v. That it is also imperative that the administrators render a just and true accounts of the estate during their administration and be held to account for any part of the estate that cannot be accounted for before this Honourable Court can consider whether to confirm the grant issued herein.
 - w. That in the alternative to the above, the other beneficiaries and I propose that Alice Limo and I be appointed as administrators in the place of William Kipkosgei Chehelgo and Andrew Kiptoo Limo.
 - x. That further to the foregoing, the other administrators and I propose that an agent be appointed the estate agents to collect the rent and deal with the rent as follows:
 - i. Pay out all the overhead expenses incidental to the running of the properties.
 - ii. Pay all the taxes incidental to the rent collected.
 - iii. Pay itself estate management fees.
 - iv. Deposit the net rental income in a joint account to be held by the new administrators to be appointed or deal with the same in the manner the Court will direct.
7. Hillary Kipchumba Kipkoech being an objector came in with an affidavit of protest sworn on 18th February, 2025 stating as follows:
- a. That I am a beneficiary and grandson to the late Chehelgo Limo.
 - b. That I am opposed to the petitioners' mode of distribution in the summons for confirmation of grant dated 30/2/2022.
 - c. That in the petitioners' mode of distribution, as per the summons of confirmation of grant, dated 30/2/2022 the administrators have failed, to declare how much rent, is received monthly or yearly, from the commercial properties, situated on land parcels, known as Eldoret Municipality Block 7/12, Eldoret Municipality Block 7/98 And Eldoret Municipality Block 6/65 and how the same shall be distributed amongst all the beneficiaries.
 - d. That the administrators should render account, from the year 2001, to the year 2017.
 - e. That the forensic audit report, states that the last five years, being 2018 to 2022, will provide a trend for the previous years, being 2001 to the year 2017, why would the auditor make such an assumption, knowing clearly that the transactions of each year, may not be the same with the other years.
 - f. That the forensic audit report, clearly depicts a lot of anomalies, in the administration of the estate, for instance the expenses as demonstrated on page 6, of the audit report shows that, the operating expenses for the years 2018 to 2022, amounts to Kshs. 60,955,125/= and the beneficial expenses amount to Kshs.14,570,440/=.
 - g. That the forensic audit report, mentions questionable expenses totalling to Kshs.1,245,000/=, where Kshs.545,000/= were paid to an unnamed payee and Kshs.700,000/= were paid to KRA staff, but there is no explanation on what the payments were for and no receipts have been availed in support thereto.



- h. That it beats logic that the expenses of the estate are inordinately high, causing the estate to run huge losses to the disadvantage of the beneficiaries.
- i. That it is also not clear whether the administrators sought the consent, or the participation of all the beneficiaries on the expenditures of the estate.
- j. That administrators should avail documents/receipts to prove expenditures and income of the estate herein.
- k. That paragraph 8.1 (a), on page 8 of the audit report, mentions that housing allowances, were given to some of the employees, who have been given, residential houses in the estate, which amounts to double benefit, on their part and definitely a loss to the estate.
- l. That paragraph 8.1 (b), on page 8 of the audit report, mentions overtime allowance, paid to some employees, but that the amount was constant, for more than one year, thus the amount ceased being overtime, but fixed in addition to the monthly salary. I agree with the auditor that this payment of overtime is questionable and the administrators should give a candid explanation and account for the same.
- m. That paragraph 8.1 (e), on page 11 of the audit report, mentions salary advances of Kshs. 2,083,200/=, to employees and the auditor states that, the same was not recovered as expected, my take of this is that, any salary advances, should have been recovered/deducted, from the salary of the particular employee, when their salary was due and the failure to do so, amounts to lack of accountability, on the part of the administrators.
- n. That paragraph 8.2, on page 12 of the audit report, mentions temporary advances and refundable advances, amounting to Kshs.4, 000,000/=, but it is not clear how temporary and if the amount was refunded, the administrators should give a clear meaning of temporary, because if the advance was temporary and refundable, it should be clear if and when the amount was refunded.
- o. That paragraph 9.3 on page 17 of the audit report talks of farm expenses, the auditor states that, some farm expenses were incurred and paid by the estate, however there is no indication, of the benefits accruing to the estate, it is strange that, expenses were paid from the estate, for farm expenses but no benefits, accrued therefrom to the estate.
- p. That the paragraphs 9.6 and 9.7, on page 20 and 21 respectively of the audit report, mentions personal use and school fees, I tend to agree with the auditor that there are huge disparities in the allocation to beneficiaries and the administrators should demonstrate to court, if the beneficiaries were consulted and or gave their consent on the same and further give a clear account of the same and it is clear some not all the beneficiaries for instance some daughters of the estate benefitted from the same.
- q. That the administrators should demonstrate to court, how they came up with payment of school fees, money for personal use, bonuses, allowances and payments of administrators personal bills as per the audit report.
- r. That the administrators have allocated themselves money referred to as "others" in their salary statement as per the forensic audit report which is huge amount cannot be explained or accounted for.



- s. That the administrators should be compelled to compensate the estate for any money that cannot be accounted for in the estate, alternatively the lost money can be deducted from their expected respective shares.
 - t. That I am opposed to the petitioners' proposal, to have the administrators and Mark Kipchirchir Limo, to hold some estate properties in trust, for other beneficiaries, when all the beneficiaries, are adults of sound minds and are capable to hold their own shares.
 - u. That I am also opposed to the petitioners' proposal, to have William Kipkosgei Chelelgo, to solely own Kapyego wholesalers shop and if he has any sole right, to the said shop, then he should avail proof in support of the same.
 - v. That it is clear from the forensic audit report, that the administrators of the estate herein, are unfit to continue administering the estate and considering that there are, commercial properties, which properties rent is to be collected continually the current administrators should not be allowed to continue administering the estate.
 - w. That I wish that this court, distributes the estate herein fairly and equitably so that all the sixteen beneficiaries get equal shares, in all the properties including the commercial properties, situated on land parcels, known as Eldoret Municipality Block 7/12, Eldoret Municipality Block 7/98 And Eldoret Municipality Block 6/65.
 - x. That I pray that the share, of the late Jackline Jerotich Limo, in the estate herein, be apportioned to his only surviving child (son) namely, Lucky Limo Biwott.
 - y. That I also pray that the share, apportioned to my grandmother Anne Siakwei Limo who is deceased, in LR No.XXXXXX be distributed equally amongst all the beneficiaries of the first house.
 - z. That I humbly pray that this court, appoints new administrators in place of the current administrators and we propose ourselves David Kibet Limo And Hillary Kipchumba Kipkoech to represent the first house and Isaiya Tirop Limo And Alice Jemutai Limo to represent the second house.
8. In a further affidavit protesting the amended mode of distribution as proposed by the petitioners, the Objector Hillary Kipchumba Kipkoech deposed as follows:
- a. That I have read the petitioners' further amended mode of distribution dated 26/5/2025 and the petitioners' further affidavit sworn on 26/5/2025 and having understood it, I wish to respond as follows;
 - b. That in response to paragraph 3 of further amended mode of distribution dated 26/5/2025, my affidavit of protest, sworn on 18/2/2025, has clearly stated, substantial and reasonable grounds, for opposition of confirmation of grant.
 - c. That I wish to reiterate, my averments in my affidavit of protest, sworn on 18/2/2025, in its entirety, save for the part that, the affidavit of protest is to summons for confirmation of grant dated 30/2/2022, instead the same is in protest to summons of confirmation of grant dated 30/9/2022.
 - d. That in my affidavit of protest, I have proposed that, the estate of the deceased, be distributed equally, amongst all beneficiaries and I have also pointed out, the wastage and anomalies, in the administration of the estate, with specific reference, to the forensic audit report.



- e. That in response, to paragraph 3(vii), I proposed the removal, of the current administrators of the estate herein, for the reasons stated, in my said affidavit of protest and we have relied, on the forensic audit report, as proof of wastage and misappropriation of funds, belonging to the estate herein and that it was improper, for the current administrators, to continue managing, the commercial properties, of the estate as stated, in my affidavit of protest, considering the misappropriation of funds as depicted in the forensic audit report.
- f. That it is not true that, the administrators spent Kshs.1, 000,000/=, towards the burial of my dad, the truth is that, we held two fundraisings, where family members, including the administrators herein, neighbours, friends and well-wishers contributed.
- g. That the total amount, contributed in the fundraising, wholly catered for the burial, of my father, it is only one family member, who offered the hearse, free of charge.
- h. That in response to paragraph 29(i), the administrators have attached a letter, to prove that, our late grandfather, gifted the 1st administrator herein, with Kapyego wholesalers shop, the letter does not equate to a will, the requirements for a valid will, are not reflected in the said letter, the certificate of registration, is common for every person, running a business, just like the current day, business license, a tenant at a business premise, must obtain it, to run a business, whether or not, they own the business premise.
- i. That my late father, was also been given a shop, to run at the Koitogos building, which shop forms part, of the commercial properties of the deceased, which shop my late father, managed/ used for some years, after the demise of his father, later he left the shop, to be managed, by the administrators, this did not mean that he had been gifted the shop to the exclusion of the other beneficiaries.
- j. That in response to paragraph 39(ix), of the of the further amended schedule, of distribution dated 26/5/2025, the allegations that the beneficiaries, of the estate are to blame, for the delay in winding up, of the estate herein, of the estate herein, is unfounded, the administrators, have not demonstrated to the court, any action that they took, to remedy the challenge if any, I believe that, they should have reported, any challenge, to the court and in the least, they should have engaged, the Area Chief, to address the same.
- k. That the administrators, have never held, or shown that, they ever called, for a meeting with the beneficiaries, of the estate herein, towards confirmation of grant or winding up the estate, or even to update the beneficiaries, on the affairs of the estate and hear their views, or proposals towards, the management of the estate.
- l. That it is not true that, the administrators, have been giving monthly reports, to the beneficiaries herein, concerning the estate, no evidence has been availed, by the administrators, to this Honourable Court to prove the same.
- m. That my understanding of the letters, from Henry Limo, Samson Limo and the late Samuel limo, as annexed by the administrators, in support of their case, to me show dissatisfaction and questions, from the said three, separately addressed, to the administrators but surprisingly, the administrators, have not attached their responses to the said letters, if they did respond to the said letters, for instance, one of the letters, requested for the estate records, from the year 2001 to the year 2007 and the other was about, the Chelelgo Limo Company, amongst other queries as evident in the letters forming part, of their annexures.



- n. That in response to paragraph 41(iv), of the further amended schedule, of distribution dated 26/5/2025, the administrators claim that, Kshs. 545,000/= was given, to my dad and other beneficiaries, yet they have not availed, any proof to confirm that, the said beneficiaries received, the said amounts and how much was awarded to each beneficiary and when.
- o. That in response to paragraph 41(xvi), of the of the further amended schedule, of distribution dated 26/5/2025, the administrators claim, that Kshs.700, 000/= was paid to KRA, however no receipt /acknowledgment of payment and/or any document, has been availed to court, to prove the same and it is common knowledge, that the Kenya Revenue Authority always acknowledges payment.
- p. That in response to paragraph 44(iv), of the further amended schedule, of distribution dated 26/5/2025, the assertion that, the estate lost, audit records for certain financial years, I believe that the administrators, failed in their duty, to keep proper books of record, such that even if the audit records got lost, the administrators never availed, to court a record of the income and expenditure of the estate from their records for the specific financial years, which the audit records got lost.
- q. That in response to paragraph 44(v), of the further amended schedule, of distribution dated 26/5/2025, the administrators have failed, to avail evidence, of the kind of temporary structures and which estate property holds the said structures and when the said structures were constructed.
- r. That in response to paragraph 44(x), of the further amended schedule, of distribution dated 26/5/2025, I wish to disagree, with the administrators' assertion that the audit accounts prepared for a standard five year period meets the evidentiary threshold for providing faithful administration, as it aligns with the, international accounting and audit practice, my reasons being that we are talking about the estate of our late grandfather herein, as such it is not a public entity, it is only proper that, audit accounts should have been prepared yearly and it is the responsibility, of the administrators, to faithfully administer and account for the estate, at all given times.
- s. That on the issue of proof, of mismanagement of the estate, I clearly highlighted the specific paragraphs, from the forensic audit report, that reflected, the mismanagement of the estate funds in my affidavit of protest sworn on 18/2/2025.
- t. That in response to paragraph 46(i), of the further amended schedule, of distribution, dated 26/5/2025, the administrators herein, have not availed any proof, to the court, to prove that our late grandfather, gave house allowance, to some employees, as salary increment, notwithstanding the fact that, they were given housing, by the employer and if so, why was the same, referred to as, housing allowance, in the forensic audit report, if indeed it was, a salary increment.
- u. That the administrators have stated that Kshs. 4, 000,000/=, that was issued to Andrew Limo, as refundable money, was refunded to the estate and paid as legal fees, without the consent and or approval, of the beneficiaries, the administrators further failed, to avail any document/ receipt, in support of the same, it is clear that the administrators, have been drawing funds, from the estate and using the same, as they please, without informing and/or consulting, the beneficiaries of the estate.



- v. That it is unfortunate, that the petitioners, have not addressed the issue, of drawing of monthly salaries, by the administrators and the overall misappropriation of estate funds, as depicted in the forensic audit report and as raised in my affidavit of protest, sworn on 18/2/2025.
- w. That it is dishonest, for the administrators, to say that the 1st house, gave their consent, to their mode of distribution, when it is only two members, who have signed, the consent to their said mode of distribution.
- x. That Lucky Biwott Limo, is no longer a minor and as such he is capable, of making his own decisions and observations, concerning the management, of the estate herein.
- y. That I reiterate my wishes, in my affidavit of protest, sworn on 18/2/2025, that this court, distributes the estate herein, fairly and equitably, so that all the beneficiaries, get equal shares, in all the properties including the commercial properties, situated on land parcels, known as Eldoret Municipality Block 7/12, Eldoret Municipality Block 7/98 And Eldoret Municipality Block 6/65.
- z. That the current administrators, are unfit to continue, administering the estate herein, the forensic audit report, has clearly shown, the misappropriation of the estate funds, I strongly believe that, it will not be in the best interest, of all the beneficiaries, of the estate to have the current administrators, continue managing the estate property and specifically, the monthly rental income, generated from Eldoret Municipality Block 7/12, Eldoret Municipality Block 7/98 And Eldoret Municipality Block 6/65, which income is continuous.
- aa. That it is my humble prayer, that this court removes, the current administrators, for the above mentioned reason and also for failure to produce, to the court within six months, from the date of the grant, a full and accurate inventory, of the assets and liabilities, of the deceased and a full and accurate, account of all dealings, in the estate, up to the date of account.

1st – 7th Beneficiaries Written Submissions

9. Learned counsel Mr. Otieno submitted for the beneficiaries/protesters that the Petitioners have failed to render true accounts of the Estate as required by law. It was submitted that this position is grounded in section 83 of the *Law of Succession Act*, Cap 160, which stipulates the duties of personal representatives including the obligation to provide and pay expenses, collect all property of the deceased, pay all debts, and within six months from the date of grant, produce to the court a full and accurate inventory of assets and liabilities and a full account of all dealings therewith.
10. Learned counsel cited the case of *M K M & 3 Others vs. B N M* [2016] eKLR in support of their argument, where the court emphasized that a trustee was to hold the estate for the applicants and beneficiaries and was supposed to deal with the property for their benefit, noting that one was not to deal with the property as he/she wished.
11. Further, the Protestors contend that the Petitioners had deliberately avoided seeking confirmation of the estate because they did not intend to render proper accounts and have failed to do so to date. Learned counsel stated that while the Petitioners purported to have rendered accounts through their application for confirmation of grant dated 30th September 2022, the Court proceeded to appoint Maswai Rono & Associates to carry out a forensic audit of the Estate.
12. Counsel submitted that the forensic audit report filed on 21st February 2024, with its summary filed on 18th February 2025, reveals numerous anomalies. It was submitted that the report fails to capture the entire period of administration, being limited to 2018-2022, with the Auditors attributing this



- limitation to the Petitioners' failure to supply complete records. Learned counsel stated that the report alludes to various questionable expenses or payments which were not backed by documentation.
13. It was further submitted that the report contains several critical deficiencies including failure to indicate the number of units for each property, failure to account for bank accounts and their signatories, non-disclosure of movement of proceeds and closing balances, failure to indicate M-pesa account ownership and fund accounting, failure to address cash collections and banking procedures, and failure to address the company's deposit policies and refund liabilities.
 14. On the issue of intermeddling with the estate, learned counsel submitted that the audit report identified numerous instances of lack of transparency by the Petitioners, beginning with the illegal incorporation of Chehelgo Arap Limo & Company Limited to administer the estate. It was submitted that incorporating a company without inclusion of all beneficiaries as directors or shareholders raises questions about the Petitioners' good faith and transparency in managing the estate, constituting intermeddling since the instruments of administration were granted to individuals and not to a company.
 15. Regarding the extent of the net intestate estate, learned counsel submitted that the affidavit in support of the summons for confirmation of grant is incapable of settling this matter, and the audit report fails to give an accurate status of funds collected from the estate. It was submitted that the estate management has been shrouded in lack of transparency, making it proper to appoint new administrators to follow up and verify the estate's status before distribution to beneficiaries.
 16. Learned counsel cited the case of *Estate of Joseph Eric Owino alias Joseph Eric Owino Nyaburi-Deceased* (Succession Cause 58 of 2020) [2022] KEHC 15453 (KLR) where the Court emphasized that the production of accounts is a key component of estate administration, and that accounts serve as an accountability tool to determine whether an administrator has been faithful to their role.
 17. On the mode of distribution and confirmation of grant, it was submitted that the Court should consider substituting the current administrators with new ones to expedite the process of determining the net estate. Learned counsel stated that it is imperative that the grant of letters of administration intestate should be revoked and not confirmed if the administrators fail to render true accounts, as they have not rendered any full, just and true accounts of the estate to date.
 18. In conclusion, learned counsel humbly submitted that the Honorable Court should allow the beneficiaries' protest in the interest of justice.

Objector's Supplementary Submissions

19. Learned counsel Ms. Chereno submitted for the objector that in response to paragraph 3 of the further amended mode of distribution dated 26/5/2025, the objector's affidavit of protest sworn on 18/2/2025 has clearly stated substantial and reasonable grounds for opposition to confirmation of grant. She submitted that the objector wishes to reiterate his averments in his affidavit of protest in its entirety, save for the correction that the affidavit of protest relates to summons for confirmation of grant dated 30/2/2022 instead of 30/9/2022.
20. Learned counsel stated that in his affidavit of protest, the objector has proposed that the estate of the deceased be distributed equally amongst all beneficiaries and has pointed out the wastage and anomalies in the administration of the estate with specific reference to the forensic audit report.
21. It was submitted that in response to paragraph 3(vii) of the further amended schedule of distribution dated 26/5/2025, counsel proposed the removal of the current administrators of the estate for the reasons stated in the said affidavit of protest, citing proof of wastage and misappropriation of funds



- belonging to the estate and that it was improper for the current administrators to continue managing the commercial properties of the estate considering the misappropriation of funds as depicted in the forensic audit report.
22. Counsel submitted that it is not true that the administrators spent Kshs.1,000,000/= towards the burial of the objector's father, stating that the truth is that two fundraisings were held by the family where family members, administrators, neighbors, friends and well-wishers contributed, and that the total amount contributed in the fundraising wholly catered for the burial with only one family member offering the hearse free of charge.
 23. Regarding the issue of gifting, learned counsel submitted that in response to paragraph 29(i), the administrators have attached a letter to prove that the deceased gifted the 1st administrator with Kapyego wholesalers shop, however a letter does not equate to a will, and the requirements for a valid will are not reflected in the said letter. It was submitted that the certificate of registration is common for every person running a business and that just like the current day business license, a tenant at a business premise must obtain it to run a business whether or not they own the business premise.
 24. Counsel submitted that the objector's late father was also given a shop to run at the Koitogos building, which shop forms part of the commercial properties of the deceased, and that the objector's father managed/used it for some years before leaving it to be managed by the administrators, but this did not mean that he had been gifted the shop by the deceased to the exclusion of other beneficiaries.
 25. It was submitted that the administrators have never held or shown that they have ever called for a meeting with the beneficiaries of the estate towards confirmation of grant or winding up of the estate, or even to update the beneficiaries on the affairs of the estate and hear their views or proposals towards the management of the estate.
 26. Learned counsel submitted that regarding the administrators' understanding of letters from Henry Limo, Samson Limo and the late Samuel Limo, these show dissatisfaction and questions from those three separately addressed to the administrators, but surprisingly, the administrators have not attached their responses to the said letters. It was submitted that one of the letters requested estate records from the year 2001 to 2007 and the other was about the Chelelgo Limo Company amongst other queries.
 27. Counsel submitted that in response to paragraph 41(iv) of the further amended schedule of distribution, the administrators claim that Kshs. 545,000/= was given to the objector's father and other beneficiaries, yet they have not availed any proof to confirm that the said beneficiaries received the said amounts and how much was awarded to each beneficiary and when.
 28. It was submitted that in response to paragraph 41(xvi) of the further amended schedule of distribution, the administrators claim that Kshs.700,000/= was paid to KRA, however no receipt/acknowledgment of payment and/or any document has been availed to court to prove the same, and it is common knowledge that the Kenya Revenue Authority always acknowledges payment.
 29. Regarding lost audit records, learned counsel submitted that in response to paragraph 44(iv) of the further amended schedule of distribution, the assertion that the estate lost audit records for certain years shows that the administrators failed in their duty to keep proper books of record, such that even if the audit records got lost, the administrators never availed to court a record of the income and expenditure of the estate from their records for the specific financial years which the audit records got lost.
 30. Counsel submitted that the objector disagrees with the administrators' assertion that the audit accounts prepared for a standard five-year period meets the evidentiary threshold for providing faithful administration, stating that it is not a public entity and thus it is only proper that audit accounts should



have been prepared yearly and it is the responsibility of the administrators to faithfully administer and account for the estate at all given times.

31. On the issue of mismanagement, learned counsel submitted that the objector clearly highlighted specific paragraphs from the forensic audit report that reflected the mismanagement of the estate funds in the objector's affidavit of protest sworn on 18/2/2025.
32. It was submitted that it is dishonest for the administrators to say that the 1st house gave their consent to their mode of distribution when it is only two members who have signed the consent to their said mode of distribution.
33. Counsel submitted that the objector reiterates his wishes as per his affidavit of protest sworn on 18/2/2025, that this court distributes the estate fairly and equitably so that all the beneficiaries get equal shares in all the properties including the commercial properties situated on land parcels known as Eldoret Municipality Block 7/12, Eldoret Municipality Block 7/98 and Eldoret Municipality Block 6/65.
34. It was submitted that the current administrators are unfit to continue administering the estate since the forensic audit report has clearly shown the misappropriation of the estate funds, and the objector strongly believes that it will not be in the best interest of all the beneficiaries of the estate to have the current administrators continue managing the estate property and specifically the monthly rental income generated from Eldoret Municipality Block 7/98 and Eldoret Municipality Block 7/12, Eldoret Municipality Block 6/65, which income is continuous.
35. Learned counsel prayed that this court removes the current administrators for the above mentioned reasons and also for failure to produce to the court within six months from the date of the grant, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings in the estate up to the date of account.
36. Counsel submitted that the administrators have raised the issue of legal fees only in their submission, stating that their prayer is that legal fees should be paid before distribution of the estate, yet the said legal fees have not been ascertained or quantified. It was submitted that the administrators never informed the beneficiaries about the agreed legal fees but only stated that Kshs.4,000,000/= was paid as legal fees and the beneficiaries have been left in darkness on the amount in legal fees.
37. Learned counsel cited several cases in support of their submissions including *In Re Estate of Francis Andabwa Nabwangu (deceased)* [2021] eKLR, *In Re Estate of the Late Mwaura Makuro (deceased)* [2021] eKLR, *In Re Estate of Simon Ndungu Thumbi (Deceased)* (Succession Cause 5040 of 2020) [2022] KEHC 11173 (KLR), *In Re Estate of Sarastino M'chabari M'ukabi (deceased)* [2021] eKLR, and *In Re Estate of Benedict Eliud Ouma (deceased)* (succession Cause 372 of 2008) [2024] KEHC 3581 (KLR).
38. It was submitted that in light of the provisions of Sections 79 and 83 of the *Law of Succession Act*, the protestors being beneficiaries of the estate of the deceased are well within their right to demand and apply for accounts, notwithstanding that the grant is yet to be confirmed and that the Court must prior to confirmation of the grant satisfy itself that the administrators have thus far faithfully dealt with the estate of the deceased.
39. Counsel humbly prayed that this Court find the objector's affidavit of protest sworn on 18/2/2025 and the further affidavit of protest dated 16/6/2025 is merited, and placed reliance on various authorities in support of their submissions.



Petitioner's written submissions

40. Learned Counsel Ms. Chesoo invoked the Court's jurisdiction under Section 47 and 71 of *Law of Succession Act* and Rule 41 of the *Probate and Administration Rules, 1980* to allow the summons for confirmation dated 30-09-2022 and the amended schedule of distribution in support for confirmation dated 26-05-2025.
41. It was submitted that the issues for determination revolve around the rightful beneficiaries of the estate, the proposed distribution, and whether the Protestors' claims have legal and factual basis.
42. As to whether persons named by petitioners qualify as lawful beneficiaries, learned counsel submitted that the 3rd beneficiary is the widow and hence qualifies as a lawful dependent under Section 29(a) of the *Law of Succession Act*. It was submitted that the Petitioners, 1st, 2nd, 4th, 5th, 6th, 7th, 9th and 11th are the sons and children of the deceased and qualify as lawful dependants under Section 29(a) of the *Law of Succession Act*.
43. Counsel submitted that the 8th, 12th and 13th Beneficiaries are grandchildren of the deceased whose parents died and are qualified as lawful dependant under Section 29(b) of the *Law of Succession Act*. It was submitted that the 9th Beneficiaries is a daughter in law of the deceased, widow to the deceased son (Samuel Kimutai Limo) and his legal representative on behalf of their children qualified as lawful dependant under Section 29(b) and Section 82(a) and Section 83(b) of the *Law of Succession Act*.
44. On whether purchasers/creditors hold valid and enforceable interests, learned counsel submitted that Section 3 of the Act defines "estate" means the free property of a deceased person while "free property" in relation to a deceased person means the property of which that person was legally competent to freely dispose during his lifetime.
45. Counsel submitted that the Petitioners under Section 83(d) of the *Law of Succession Act* investigated and ascertained that the 1st to 44th Creditors are liabilities of the estate and their debts must be paid by the estate. It was submitted that Section 51(h) of the *Law of Succession Act* provides that a mandatory full inventory of assets and liabilities if the deceased estate must be furnished by the Petitioner.
46. It was submitted that the agreements attached to the Affidavit in support of the mode of distributions confirm the creditors purchased from the deceased, and they were placed in possession and occupation of LR No. XXXXX (IR No.19086) Measuring 349 acres since 1980's by the deceased.
47. Counsel cited the case of *Titus Muraguri Warothe & 2 Others vs Naomi Wanjiru Wachiira Njeri* HCSC No 122 of 2020 where it was held that the applicants were purchasers for value of a portion of the deceased's estate and that they were put in possession of their portions of the suit premises by the deceased before he passed on and with full knowledge of the respondent and since then they had been in continuous and uninterrupted occupation of the suit premises.
48. Learned counsel further cited the case of *Macharia Mwangi Maina & 87 Others vs Davidson Mwangi Kagiri* [2014] eKLR where the Court of Appeal held that the appellant's action of receiving the full purchase price and putting the respondent in possession created a constructive trust in favour of the respondent.
49. Learned Counsel submitted as to what constitutes the free property available for distribution, where she cited section 3 of the *Law of Succession Act* which defines "free property" as property which the deceased person was legally competent to dispose during his lifetime, and in respect of which his interest has not been terminated by his death.



50. Ms. Chesoo submitted that during his lifetime, the deceased lawfully and voluntarily distributed substantial portions of his property to his sons and his two wives, constituting clear inter-vivos gifts. It was submitted that these dispositions were made openly, with the deceased's full intentions to benefit the recipients, and were accompanied by possession, control, and development of the respective parcels of land.
51. Counsel submitted that the said gifts excised out of LR No. XXXXX (IR No.19086) Measuring 349 Acres, Mosop/Chepkorio/315 measuring 5.9 Ha and Uasin Gishu/Kaptagat/211 Measuring 39.50 Ha were neither conditional nor testamentary in nature, but rather completed and perfected during the deceased's lifetime, and have been recognized by long-standing occupation and investment by the recipients.
52. Counsel submitted detailed tables showing the inter-vivos gifts made by the deceased during his lifetime to his sons and 2 wives excised out of various land parcels. It was submitted that in accordance with the provisions of Section 42 of the Law of Succession Act, these gifts must now be brought into account when determining the ultimate share of each house or beneficiary, to ensure an equitable distribution of the net estate.
53. Learned counsel cited several judicial authorities including Re Estate of Late Gedion Mannai Nzioka (2015), Kabui v Njenga [2024] KEHC 8446 (Kenya High Court), Ssekamwa Sande v Mukaaya William (Uganda High Court, 2023), Pennington v Waine [2002] EWCA Civ 227 (England and Wales Court of Appeal), Strong v Bird (1874) LR 18 Eq 315, and Ex parte Sidelsky 1931 WLD 185 (South Africa) in support of the validity of *inter vivos* gifts.
54. It was submitted that the following properties constitute the free estate of the deceased and are available for distribution among the beneficiaries in accordance with Section 40 of the Law of Succession Act: Eldoret Municipality Blocks 6/65, 7/98, and 7/12, Kenya Commercial Bank Shares, Absa bank shares, various tractors and farm equipment, balance of funds in bank accounts and rental income from the municipal blocks, and various other assets totaling considerable value.
55. Learned counsel submitted that the Protestors' affidavit of protest does not comply with the requirements set out in Rule 40(6) of the Probate and Administration Rules. It was submitted that under Sections 107 and 108 of the Evidence Act (Cap. 80), the burden of proof lies on the person who asserts a fact, and the Protestors have alleged mismanagement of the estate but have not provided any evidence to substantiate these claims.
56. Counsel submitted that the administrators have provided evidence, including emails and other correspondence, showing that the Protestors have actively frustrated the administration of the estate by insisting that the estate should not be distributed without their physical presence in Kenya and have lodged restrictions against valuable estate properties.
57. The Petitioners urged this Honorable Court to confirm the grant of letters of administration intestate issued to the Petitioners and adopt the Amended Schedule of Distribution dated 26th May 2025 as the lawful and equitable framework for final distribution of the estate.
58. Learned counsel submitted that the proposed distribution complies with mandatory statutory requirements, particularly Section 40 of the Law of Succession Act, which governs distribution in polygamous families, and Section 42 of the Act, which mandates that any *inter vivos* gifts made by the deceased during his lifetime be taken into account when distributing the net intestate estate.



59. Counsel cited the case of *Rono v Rono & Another* [2005] eKLR in support of their position that equity demands that any lifetime gifts must be recognized to ensure that all beneficiaries are treated fairly in the final distribution.
60. On the issue of costs, counsel submitted that in succession proceedings it is governed by Rule 63 of the *Probate and Administration Rules*. Learned counsel cited *Re Estate of Wambui Njoroge* (Deceased) [2014] eKLR and *Re Estate of M'mboroki M'murungi* (Deceased) [2017] eKLR in support of their position that costs should not be awarded to protestors who file baseless objections.
61. Counsel submitted that while the Protestors are undeserving of costs, she urged the Court to make provision for payment of the estate's legal expenses as the Petitioners have acted in good faith and retained legal counsel to guide the administration process, preserve estate assets, and ensure compliance with the law.
62. In conclusion, learned counsel respectfully submitted that this honorable Court should confirm the grant, adopt the amended schedule of distribution, deny the Protestors any award of costs, and direct that legal costs incurred by the estate's advocate be paid out of the estate as an administrative expense.

Analysis and Determination

63. The administration of estates calls for the highest standards of probity, transparency and accountability from those entrusted with the solemn responsibility of managing the affairs of the deceased. It is against this backdrop that this Court is seized of an application for confirmation of grant in the estate of the late Chehelgo Arap Limo, an application that has sparked fundamental questions about the conduct of the administrators over a span of twenty-four years.
64. The deceased breathed his last on 4th February, 2001, leaving behind a substantial estate comprising immovable properties, commercial buildings, agricultural land, and various chattels. On 17th May, 2001, this Court granted letters of administration intestate to William Kipkosgei Chehelgo and Andrew Kiptoo Limo as personal representatives. The protracted nature of this administration has given rise to concerns among the beneficiaries regarding the stewardship of the estate, the transparency of its management, and the equitable distribution of assets. The Court is therefore called upon to examine whether the administrators have discharged their statutory duties with the requisite fidelity and whether the proposed distribution accords with the principles of law and equity.
65. It is common ground that the grant was issued to William Kipkosgei and Andrew Kiptoo Limo as joint administrators of the deceased's estate. Their functions are provided for by the said law under sections 79, 82 and 83 of the said *Law of Succession Act*. The sections provide as follows:
 - “79. The executor or administrator to whom representation has been granted shall be the personal representative of the deceased for all purposes of that grant, and, subject to any limitation imposed by the grant, all the property of the deceased shall vest in him as personal representative.
 82. Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers—
 - (a) to enforce, by suit or otherwise, all causes of action which, by virtue of any law, survive the deceased or arising out of his death for his personal representative;



- (b) to sell or otherwise turn to account, so far as seems necessary or desirable in the execution of their duties, all or any part of the assets vested in them, as they think best: Provided that—
 - (i) any purchase by them of any such assets shall be voidable at the instance of any other person interested in the asset so purchased; and
 - (ii) no immovable property shall be sold before confirmation of the grant;
 - (c) to assent, at any time after confirmation of the grant, to the vesting of a specific legacy in the legatee thereof;
 - (d) to appropriate, at any time after confirmation of the grant, any of the assets vested in them in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased or any other interest or share in his estate, whether or not the subject of a continuing trust, as to them may seem just and reasonable to them according to the respective rights of the persons interested in the estate of the deceased, and for that purpose to ascertain and fix (with the assistance of a duly qualified valuer, where necessary) the value of the respective assets and liabilities of such estate, and to make any transfer which may be requisite for giving effect to such appropriation: Provided that except so far as otherwise expressly provided by any will—
 - (i) no appropriation shall be made so as to affect adversely any specific legacy;
 - (ii) no appropriation shall be made for the benefit of a person absolutely and beneficially entitled in possession without his consent, nor for the purpose of a continuing trust without the consent of either the trustees thereof (not being the personal representatives themselves) or the person for the time being entitled to the income thereof, unless the person whose consent is so required is a minor or of unsound mind, in which case consent on his behalf by his parent or guardian (if any) or by the manager of his estate (if any) or by the court shall be required.
83. Personal representatives shall have the following duties—
- (a) to provide and pay out of the estate of the deceased, the expenses of a reasonable funeral for him;
 - (b) to get in all free property of the deceased, including debts owing to him and moneys payable to his personal representatives by reason of his death;



- (c) to pay, out of the estate of the deceased, all expenses of obtaining their grant of representation, and all other reasonable expenses of administration (including estate duty, if any);
- (d) to ascertain and pay, out of the estate of the deceased, all his debts;
- (e) within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
- (f) subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;
- (g) within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration;
- (h) to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
- (i) to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.”

66. The major contention as can be discerned from the proceedings touches on the administrator’s accountability, the extent of the net estate available for distribution, the validity of claimed *inter vivos* gifts, and the rights of creditors who assert proprietary interests in portions of the estate property. The protestors raised serious allegations of mismanagement, lack of transparency, and breach of fiduciary duty, while the petitioners maintain that they have acted within the bounds of their authority and in the best interests of the estate.
67. The primary duty of this court is to ensure that the estate is administered in accordance with the *Law of Succession Act* and that all beneficiaries are treated fairly and in an equitable manner, and that the distribution should reflect the true net estate after proper accounting for all assets, liabilities, and legitimate claims.
68. Having considered the summons together with the proposed mode of distribution vis-a-vis the protest as advanced by the protestors together with the rival submissions, the issues that distill themselves for determination are:



- a. Whether the administrators have provided adequate accounts of their stewardship and whether they should continue in office
- b. What is the net estate? and can the claims of gifts *inter vivos* pass?
- c. How should the estate be distributed?

Whether The Administrators Have Provided Adequate Accounts Of Their Stewardship; and Whether They Should Continue In Office

69. Let me start by addressing the allegations of mismanagement and lack of accountability that have been raised by the protestors. The duty imposed by Section 83 of the *Law of Succession Act* requires administrators to render full and accurate accounts of their stewardship, and the Court cannot properly confirm a grant without first satisfying itself that this fundamental obligation has been discharged.
70. The protestors have relied on the forensic audit report prepared by Maswai Rono & Associates, which reveals significant deficiencies in the administration of the estate over the period 2018-2022. The audit reveals operating expenses of Kshs. 60,955,125 over the five-year period, with questionable expenses totalling Kshs. 1,245,000 lacking proper documentation. Particularly concerning are payments of Kshs. 545,000 to unnamed payees and Kshs. 700,000 allegedly paid to KRA staff without supporting receipts. The report also identifies unrecovered salary advances of Kshs. 2,083,200 and temporary advances of Kshs. 4,000,000 with unclear refund status.
71. In its conclusions, the report indicated the following:
- “Having reviewed the financial transactions for the five year (2018-2022) for the estate. We conclude as follows:
11. The administrators have maintained the three buildings in good state of repair.
 - 1 There are only minor cases like Koitogos leaking roof which can be attended to with a minimal effort and cost.
 11. The ownership of the three buildings have not been tampered with. The land
 - 2 searches done in 2022 confirms the same.
 - 11.3 The occupancy rates for the three buildings compares favourably with similar ones in the Central Business District.
 11. The rental rates paid by tenants are slightly on the lower side especially for
 - 4 those tenants who have stayed for a very long time. It is time for a review. Low rental rates might be attributed to poor structural design of Kaplimo and Koitogos buildings some of which have poor natural lighting and ventilation.
 11. Rent collected *visa verses* arrears is about 70% which is not bad, however much
 - 5 efforts need to be put in collections.
 11. Maintenance of the books of accounts was poor especially the cashbook.
 - 6 Monthly reconciliation was either missing or not done well. The cash balance carried forward was not realistic.
 11. Some employees took advantage of their positions to earn house allowance
 - 7 while housed, received salary advances most of which was not recovered and



they earned an extra salary which were termed as overtime. The administrators were negligent in approving and not stopping it.

11. Whereas we have categorized some expenses or payments as questionable due to lack of basic documents, they were made on the basis of entitlement or trust. We did not find any ulterior motive or fraudulent activity in any of the transactions.

11. The consistent manner in the issues that we have noted in our findings throughout the five years, could give a general trend that have happened in the prior years (2001-2017).”

72. I also find it important to highlight the methodology employed by the experts to arrive at the conclusions captured herein. The report recorded as hereunder:

“Methodology

In order to achieve the objectives of the Forensic Audit this firm designed an audit program covering all the elements within the scope and period. We used the following procedure to obtain sufficient appropriate audit evidence:

- a. Inspection and site visit to all buildings.
- b. Observation
- c. Examination of documents and records.
- d. External confirmations.
- e. Re-calculation.
- f. Analytical procedure.
- g. Enquiry/interviews.

The information used as evidence was evaluated to ensure that it is relevant and reliable taking into account the veracity of internally generated information. We established an understanding of the processes and procedures used by the administrators and its agents. We identified all revenues scrutinized all corresponding transactions handles by estate during the period and documented all record supporting the transactions.”

73. Perhaps, even as I comment on the findings of the report, I am cognizant of the decision in [*Christopher Ndaru Kagina v Esther Mbandi Kagina & another*](#) [2016] KEHC 3192 (KLR) in which the court cited the passage from a judgment by Sir George Jessell MR in the case [*Abringer v Ashton*](#) {1873} 17 LR Eq 358 at 374 where he described expert witnesses as "paid agents." Almost 100 years later Lord Woolf joined the list of critics of expert witnesses in his Access to Civil Justice Report, when he said: -

“Expert witnesses used to be genuinely independent experts. Men of outstanding eminence in their field. Today they are in practice hired guns. There is a new breed of litigation hangers-on, whose main expertise is to craft reports which will conceal anything that might be to the disadvantage of their clients.”



74. The court in *Christopher Ndaru Kagina v Esther Mbandi Kagina & another* [2016] KEHC 3192 (KLR) proceeded to state that:

“the fundamental characteristic of expert evidence is that it is opinion evidence. To be practically of assistance to a court, however, expert evidence must also provide as much detail as is necessary to allow the court to determine whether the expert’s opinions are well founded”

In my opinion, the factors which the court may take into account in determining the reliability of expert opinion, include: -

- a. the extent and quality of the data on which the expert’s opinion is based, and the validity of the methods by which they were obtained;
- b. if the expert’s opinion relies on an inference from any findings, whether the opinion properly explains how safe or unsafe the inference is (whether by reference to statistical significance or in other appropriate terms);
- c. if the expert’s opinion relies on the results of the use of any method (for instance, a test, measurement or survey), whether the opinion takes proper account of matters, such as the degree of precision or margin of uncertainty, affecting the accuracy or reliability of those results;
- d. the extent to which any material upon which the expert’s opinion is based has been reviewed by others with relevant expertise (for instance, in peer-reviewed publications), and the views of those others on that material;
- e. the extent to which the expert’s opinion is based on material falling outside the expert’s own field of expertise;
- f. the completeness of the information which was available to the expert, and whether the expert took account of all relevant information in arriving at the opinion (including information as to the context of any facts to which the opinion relates);
- g. if there is a range of expert opinion on the matter in question, where in the range the expert’s own opinion lies and whether the expert’s preference has been properly explained; and
- h. whether the expert’s methods followed established practice in the field and, if they did not, whether the reason for the divergence has been properly explained.

75. I have taken note of the cited decisions herein and considered the threshold upon which expert evidence should be relied on or rather the basis upon which the court should consider the same as a persuasive instrument. In the case at bar, the forensic audit report by Maswai Rono & Associates in the present matter demonstrates a level of methodological rigor and professional integrity. The auditors explicitly detailed their methodology, employing inspection and site visits, examination of documents and records, external confirmations, re-calculation, analytical procedures, and structured enquiries. This transparent approach to evidence gathering and the auditors’ frank acknowledgment of limitations, specifically noting that incomplete records constrained their ability to review the entire administration period, in my view speaks to professional objectivity rather than advocacy for any particular party.



76. The Court notes that the audit's most significant finding is not its identification of specific irregularities, but rather its revelation of systemic record-keeping deficiencies spanning twenty-four years of administration. While the protestors characterize these deficiencies as evidence of deliberate mismanagement, I am of the view that a more measured assessment would recognize the practical challenges inherent in maintaining comprehensive financial records over such an extended period. The absence of complete documentation for seventeen years (2001-2017) must be viewed against the reality that the administrators were managing an estate comprising multiple commercial properties, agricultural holdings, and various business ventures without the benefit of modern digital record-keeping systems for much of this period. The human reality is that perfect record retention over nearly a quarter-century, particularly for an estate managed by family members rather than professional trustees, represents an ideal that is seldom achieved in practice.
77. The protestors' concerns about unrecovered salary advances, housing allowances, and overtime payments, while legitimate questions of administrative prudence, do not necessarily establish malfeasance or breach of fiduciary duty. These matters may equally reflect judgment calls made in the course of ongoing estate management, particularly where family members served in dual capacities as both administrators and beneficiaries contributing to the estate's operation.
78. The Court is also mindful that the protestors themselves, as beneficiaries, have likely derived benefits from the estate over the twenty-four-year administration period, even if not formalized through documented distributions. The very fact that commercial properties have been maintained in good repair, achieving 70% rent collection rates that the auditors deemed as not bad, and sustaining occupancy rates comparable to similar properties in Eldoret's Central Business District, suggests that the administrators have preserved and managed the estate's assets with reasonable diligence. The absence of perfect accounting should not obscure the fundamental reality that the estate has remained substantially intact and continues to generate income for distribution to beneficiaries.
79. So that then the appropriate response to imperfect record-keeping is not automatic removal of administrators who have maintained the estate's value over decades, but rather enhanced oversight and accountability measures going forward. The Court therefore determines that while the audit report reveals administrative shortcomings requiring correction, it does not establish grounds for wholesale revocation of the grant. The appointment of additional administrators to work alongside the existing representatives, coupled with stringent requirements for future accounting and transparency, in my view addresses the concerns raised while preserving institutional continuity in estate management.
80. Going forward, the enhanced administration team must implement proper accounting systems, maintain comprehensive records, and provide regular reports to all beneficiaries within a period of not more than six months.

What is The Net Estate? And Can The Claims Of Gifts Intervivos Pass?

81. In matters of intestate or testate estate in the Court proceeding to evaluate the evidence from the respective beneficiaries, or interested parties or for that matter creditors under Section 93 of the [Act](#) the main actor is the Deceased person and yet having numbered his or her days aright, he or she cannot be with us to testify to the truthfulness in the matter of his or her estate. He or she cannot rise from the death to tell his or her side of the story on questions of gifts *inter vivos* or gifts mortis causa or prior distribution done during his survivorship which mostly is being held unto by the heirs to the estate as credible evidence to be admitted and applied by the court in the decision making process. It is therefore trite on matters of evidence anything alluded to the deceased is more often than not received and treated with suspicion and caution. That is why it is necessary that proof on matters of succession



should not be just on a balance of probabilities, maybe something in between or even the standard and burden of proof of beyond reasonable doubt. Why do I hold this view? Let us think for a moment the application of Section 29 of the Law of Succession Act on identification of beneficiaries or dependants capable of inheriting the estate of the deceased, there should be no guess work if one is a biological child of the deceased or a dependant the metrics of proof must be beyond reasonable doubt. In the second limb of this question, Kenya being a multiracial or multi-ethnic society with a patriarchal system rarely do the head of the family share the governance structure of his government, sometimes until death do set them asunder. The witnesses therefore come to Court some even at a very tender age during the lifetime of their father tend to draw inferences to agitate their case before a Probate Court. Oh, I wish that the deceased was to resurrect like Biblical Lazarus from his grave to tell his side of the story to assert any claim or disapprove one during the pendency of the succession proceedings and thereafter return to his heavenly mansion as they sometimes call it, for those who believe in the resurrection. It is within this context the comparative law jurisprudence in the case of *Fosua & Adu-Poku v Dufie (Deceased & Adu Poku-Mensab* [2009] SCGLR 310 at 349 made the following observations; That:

“It is also to be borne in mind that claims against the estate of a deceased person are to be viewed with caution and very cogent evidence is necessary to sustain the same ... The law is settled that whenever issues touching the estate of a person who is deceased comes into play, the courts must be very slow in construing evidence against the dead person. See *in re Krah (Decd); Yankeyerah & Ors v Osei -Tutu* [1989-90] 1 GLR 638 at 662, *SC and Bisi v Tabiri alias Asare* [1987-88] 1 GLR, 360 at 409, where the principle was state that “The well-known rule is that claims against a deceased’s estate must be scrutinized with circumspection.”

82. It is at this juncture that the Court must examine, evaluate and scrutinize the veracity, cogency, truthfulness, credibility and authenticity of the testimonies to be produced by the respective witnesses to discharge the burden of proof on gift *inter vivos* pursuant to Section 107(1), 108 and 109 of the Evidence Act. In the law of Kenya the legal rights of wives, sons and daughters in the estate of their deceased husband(s) and fathers are determined primarily by the Constitution Article 27 & 45 of the Constitution has conjunctively interpreted with the letter and spirit of the Law of Succession Act. In my view by this Constitution 2010 and the Law of Succession Act Customary Law seems to have been ousted as one of the legal pillars on inheritance rights.
83. The Petitioners allege that some of the properties were allocated to the beneficiaries during the lifetime of the deceased person. However, there is need to examine all these properties and establish whether the properties were really gifts *inter vivos*.
84. The Law of Succession Act provides for 2 kinds of gifts: Gifts in contemplation of death (*donatio mortis causa*) as provided for under Section 31 of the Law of Succession Act and simple lifetime Gift (*gift inter vivos*). In Re Estate of the Late Gedion Mantih Nzioka (Deceased) [2015] eKLR, the Court stated: -
- “In law, gifts are of two types. There are the gifts made between living persons (*gifts inter vivos*), and gifts made in contemplation of death (*gifts mortis causa*).”
85. While the Law of Succession does not provide for the definition of gift *inter vivos* as it does for gift in contemplation of death, gift *inter vivos* is contemplated under Section 42 of the Law of Succession Act. This section provides thus: -

“42. Where-



- a. an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35, that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house.”

86. A gift *inter vivos* must meet specific requirements for it to be considered valid. These principles were outlined in *Halsbury's Laws of England* 4th Edition Volume 20 (1) at paragraph 67 as follows: -

“Where a gift rests merely in promise, whether written or oral, or in unfulfilled intention, it is incomplete and imperfect, and the court will not compel the intending donor, or those claiming under him, to complete and perfect it, except in circumstances where the donor’s subsequent conduct gives the donee a right to enforce the promise. A promise made by deed is however, binding even though it is made without consideration. If a gift is to be valid the donor must have done everything which according to the nature of the property comprised in the gift, was necessary to be done by him in order to transfer the property and which it was in his power to do.”

87. The above principle connotes that a person intending to gift another must take the necessary steps to ensure that the gift is complete. In Odunga’s Digest on *Civil Case Law and Procedure* Vol (III) Page 2417 at paragraph 5484 (d) e – 1, he explained the above as follows: -

“Generally speaking the moment in time when the gift takes effect is dependent on the nature of the gift; the statutory provisions governing the steps taken by the donor to effectuate the gift. (See in *Re Fry Deceased* {1946} CH 312 Rose: and *Trustee Company Ltd v Rose* {1949} CL 78 Re: *Rose v Inland Revenue Commissioners* {1952} CH 499 *Pennington v Walve* {2002} 1WLR 2075 *Maledo v Beatrice Stround* {1922} AC 330 Equity will not come to the aid of volunteer and therefore, if a donee needs to get an order from a Court of equity in order to complete his title, he will not get it. If, on the other hand, the donee has under his control everything necessary to constitute his title completely without any further assistance from the donor, the donee needs no assistance from equity and the gift is complete. It is on that principle that in equity it held that a gift is complete as soon as the donor has done everything that the donor has to do that is to say as soon as the donee has within his control all those things necessary to enable him, complete his title. Where the donor has done all in his power according to the nature of the property given to vest the legal interest in the property in the donee, the gift will not fail even if something remains to be done by the donee or some third person. Likewise, a gift of registered land becomes effective upon execution and delivery of the transfer and cannot be recalled thereafter even though the donee has not yet been registered as a proprietor. (See Shell’s Equity 29Ed Page 122 paragraph 3)”

88. Musyoka J in the case of *Re Estate of Chesimbili Sindani* (Deceased) [2021] eKLR stated thus: -

“...the principle that emerges is that any gift *inter vivos* should be backed by some memorandum in writing, and the gift would be complete once title to the subject property is transferred to the name of the beneficiary of the gift. Difficulties arise where transfer is not effected to the beneficiaries before the death of the deceased, in which case, such property would remain the free property of the deceased, available for distribution at confirmation,



the argument being that such gift was founded on a mere promise which the deceased did not carry through prior to his death. Where some preliminary steps were taken towards effectuating his promise, so that all what remained after the death of the deceased was mere registration of the property in the name of the beneficiary, it would be presumed that that the deceased intended to make a gift *inter vivos*. The mere fact of being shown a piece of land and given permission to occupy and use it, without more, is not adequate proof for a gift *inter vivos*. The deceased, as registered proprietor of the land in question, would have the right to licence a person to occupy the land and use it. A child who has been shown a piece of land to build on and to till, is not in the shoes of an owner, but a mere licensee. The death of the deceased would not upgrade the licence to ownership, if anything the death of the proprietor could mean that the license comes to an end, and the licensee continues to occupy and work the land at the mercy of the administrator.”

89. The petitioners allege that some of the properties were allocated to the beneficiaries during the lifetime of the deceased person. However, there is need to examine all these properties and establish whether the properties were really gift inter-vivos.
90. From LR No. XXXXX measuring 349 acres, the deceased allocated specific portions totalling 14.80 hectares each to Andrew Kiptoo Limo, Japheth Henry Kipkurui Limo, Isaiya Tirop Limo, Samson Kibet Limo, and Sammy Kimutai Limo. Martha Teriki Limo received a life interest in 7.40 hectares with remainder to her daughters Alice Limo, Peninah Jepkemboi Limo and Abisaac Limo. Additional beneficiaries including William Kipkosgei Chelego, Anne Limo, Hillary Kipchumba Kipkoech, Mark Kipchirchir Limo, and David Kibet Limo each received 3.65 acres. Similar specific allocations were made from Mosop/Chepkorio/315 and other estate properties, including the complete allocation of Chepkorio Market Centre to Alice Jemutai Limo.
91. The deceased did not merely promise these gifts but took steps to effectuate them through formal legal processes as can be gleaned from the record and the evidential material by the petitioners. He prepared comprehensive subdivision schemes for LR No. XXXXX, obtaining regulatory approval from the Ainabkoi Land Control Board on 24th June 1999. He executed mutation forms for Uasin Gishu/Kaptagat/211 measuring 39.50 Ha as shown in Annexure WKC-13, and created detailed subdivision schemes for Mosop/Chepkorio/315 measuring 5.9 Ha documented in Annexure WKC-12. These formal documents demonstrate clear donative intention coupled with concrete legal action to implement the transfers.
92. Physical implementation accompanied the extensive documentation, with the deceased actually subdividing the land into identifiable portions and facilitating occupation and development by intended beneficiaries. This occupation has continued uninterrupted for three decades, with substantial investments and improvements made with the deceased's knowledge, consent, and active encouragement.
93. The English Court of Appeal decision in *Pennington v Waine* [2002] EWCA Civ 227 established that where a donor has done everything within their power to effectuate a gift, equity will not allow the donor to resile from that gift even if final registration remains incomplete. The court stated partly as follows:

“ That exception was extended in *Re Rose, Rose v IRC* and other cases by holding that for this exception to apply it was not necessary that the donor should have done all that it was necessary to be done to complete the gift, short of registration of the transfer. On the contrary it was sufficient if the donor had done all that it was necessary for him or her to do.”



94. Here, the deceased prepared comprehensive subdivision schemes, obtained necessary regulatory approvals from land control authorities, executed formal legal documents including mutation forms, and facilitated decades of uninterrupted possession and development. These actions satisfy the requirement that the donor complete all steps within their control to perfect the gift.
95. The *Re Estate of Chesimbili Sindani* (*supra*) principle that mere occupation without more is insufficient to establish a gift *inter vivos* is clearly distinguished by the extensive documentation and formal legal processes undertaken in this case. The deceased did not simply allow family members to use portions of his land informally, he created comprehensive subdivision schemes, obtained regulatory approvals from appropriate authorities, executed legal instruments including mutation forms, and established a systematic framework for the transfers that extended far beyond casual family arrangements.
96. Having examined the extensive evidence against applicable legal principles, the Court finds the documentation compelling and legally sufficient to establish valid *inter vivos* gifts. The actions as demonstrated by the deceased collectively establish a clear donative intent.
97. The next question then is to consider the net estate and its allocation to the rightful beneficiaries. The estate of the late Chehelgo Arap Limo comprises diverse assets ranging from commercial properties generating substantial rental income to agricultural land, financial instruments, and various chattels. Each category of property has unique considerations that must be examined to ensure the petitioners' proposed distribution achieves fairness and complies with statutory requirements.
98. The three commercial blocks within Eldoret Municipality Block 6/XX measuring 0.0465 hectares, Block 7/98 measuring 0.0697 hectares, and Block 7/12 measuring 0.0697 hectares constitute the estate's most valuable income-generating assets. The petitioners propose that all fourteen beneficiaries hold these properties as tenants in common, with Martha Teriki Limo enjoying a life interest in 1/15% of the rental income from each block. As far as this proposal by the petitioners is concerned, it is my considered view that the same achieves equity as all the beneficiaries have been brought on board to share in the proceeds of the said commercial properties. The provision for the widow's life interest acknowledges her dependency status under Section 29(a) of the *Law of Succession Act* and provides for her maintenance during her lifetime.
99. LR No. XXXXX measuring 349 acres represents the estate's largest single asset and presents the most complex distribution challenges. The petitioners propose allocating substantial portions to individual beneficiaries while simultaneously recognizing claims by forty-four alleged purchasers who assert rights to specific portions of this land.
100. The proposal allocates 14.80 hectares each to Andrew Kiptoo Limo, Japheth Henry Kipkurui Limo, and Isaiya Tirop Limo, while Martha Teriki Limo receives a life interest in 7.40 hectares with remainder to her daughters. Additional allocations are made to other male beneficiaries, though notably smaller portions of 3.65 acres each.
101. The claims of the forty-four alleged purchasers on the other hand present a significant challenge to the distribution scheme. These individuals claim ownership of portions ranging from 0.1020 hectares to 3.9580 hectares, collectively representing a substantial portion of the 349-acre property. The petitioners assert these are valid sales made by the deceased during his lifetime, supported by agreements and evidenced by occupation since the 1980s.
102. The Court must examine whether these transactions constitute completed sales that divest the estate of ownership or merely agreements that create personal obligations. The distinction is crucial because completed sales would remove the affected portions from the estate available for distribution, while



uncompleted agreements would render the alleged purchasers' mere creditors entitled to compensation from the estate's liquid assets. Therefore, for purposes of distribution, these portions remain nominally part of the estate subject to the equitable claims of the alleged purchasers who must complete their purchases through the administrators.

103. Similarly, the claim by Irene Chebet Kimutai to 1.5 acres from Mosop/Chepkorio/315 is recognized as a creditor claim rather than a completed *inter vivos* gift. The estate shall honor this obligation by completing the transfer to her upon verification of the underlying agreement and confirmation of payment of consideration. The claim by Eldoret Water & Sanitation Company to 31.79 hectares from LR No. XXXXXX is confirmed as a completed transaction and passes outside the intestate estate.
104. As for, Kapyego Wholesalers Shop, the Court is satisfied that the deceased clearly intended this commercial property for William's benefit, as evidenced by the letter of allocation, the certificate of business registration in William's name, and most significantly, William's uninterrupted operation and management of the wholesale business for over two decades with the full knowledge and acquiescence of the deceased during his lifetime and the family thereafter. William has developed substantial business goodwill, established supplier and customer relationships, and maintained the commercial viability of this enterprise to the benefit of the estate. The decades-long possession and operational control, coupled with the deceased's documented intention, satisfy the Court that this allocation serves the interests of justice and recognizes the reality of beneficial ownership that has subsisted for more than twenty years. This property is therefore excluded from equal distribution and vests absolutely in William Kipkosgei Chehelgo.
105. Having identified the properties passing as *inter vivos* gifts and creditor claims, the Court now turns to determine the net intestate estate available for distribution among all beneficiaries. The following properties constitute the free estate of the deceased available for distribution:
 - a. Eldoret Municipality Block 6/XX measuring 0.0465 hectares;
 - b. Eldoret Municipality Block 7/XX measuring 0.0697 hectares;
 - c. Eldoret Municipality Block 7/12 measuring 0.0697 hectares;
 - d. Kenya Commercial Bank Shares numbering 1,814 under Account Number XXXXXXXXXXXX;
 - e. Absa Bank shares numbering 12,660 under account number 29271;
 - f. The balance of LR No. XXXXXX after excluding the confirmed *inter vivos* gifts and the Eldoret Water & Sanitation Company allocation, subject to completion of transfers to verified creditors;
 - g. The Tractor John Deere KLF;
 - h. The Tractor John Deere KSA;
 - i. The Suzuki 800cc vehicle registration KYG XXX;
 - j. The Harrow Disc John Deere; the Plough Massey Ferguson;
 - k. The Fork Tiller;
 - l. The Metal High Sided Trailer;
 - m. The Maize Shelter;
 - n. The Maize Sheller;



- o. The Maize Miller;
 - p. Accumulated funds in bank accounts;
 - q. Rental income from the commercial properties; and
 - r. The Suzuki Vitara vehicle registration KAL 095E.
106. In determining the appropriate mode of distribution, the Court is guided by Section 40 of the [Law of Succession Act](#). It provides that:
- “40(1) where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children.”
107. In [Mary Rono vs Jane Rono & another](#) [2005] eKLR, Waki JA in the leading judgment, accepted the proposition that the Court had:
- “My understanding of that section is that while the net intestate estate is to be distributed according to houses each house being treated as a unit, yet the judge doing the distribution still has a discretion to take into account or consider the number of children in each house. If Parliament had intended that they must be equality between houses they would have been no need to provide in the section that the number of children in each house be taken into account.
- Nor do I see any provision in the [Act](#) that each child must receive the same or equal portion. That would clearly work injustice particularly in the case of a young child who is still to be maintained, educated and generally seen through life. If such a child whether a girl or a boy, were to get an equal inheritance with another who is already working and for whom no school fees and things like that were to be provided, such equality would work an injustice and for my part, I am satisfied that the [Act](#) does not provide for that kind of equality.”
108. Starting with the three commercial properties comprising Eldoret Municipality Blocks 6/65, 7/98 and 7/12 represent the estate's most valuable income-generating assets. The Court finds that the most equitable distribution of these properties is to vest them in all beneficiaries as tenants in common in equal shares. The rental income from these properties, after deduction of legitimate operating expenses, rates, taxes and management costs, shall be distributed equally among all beneficiaries.
109. The agricultural equipment comprising the two John Deere tractors, the Harrow Disc, Plough Massey Ferguson, Fork Tiller, Metal High Sided Trailer, Maize Shelter, Maize Sheller and Maize Miller present practical challenges for equal distribution given their indivisible nature. The Court directs that all farm equipment and machinery shall be valued by a qualified valuer appointed by the administrators within sixty days from the date of this judgment. Once valued, these assets shall either be allocated to specific beneficiaries at their election with appropriate adjustments made in cash to ensure equality, or alternatively sold and the proceeds distributed equally among all beneficiaries. The administrators shall convene a meeting of all beneficiaries within ninety days to determine by majority vote whether the equipment should be allocated or sold.
110. The balance of LR No. XXXXX after excluding the confirmed *inter vivos* gifts and the Eldoret Water & Sanitation Company allocation presents unique challenges given the pending creditor claims. The



Court directs that the administrators shall within sixty days verify each of the forty-four creditor claims by examining the underlying agreements, confirming payments made, and determining which transfers can be completed. Once this verification is complete, the administrators shall complete all legitimate transfers to verified purchasers. Any remaining portions of LR No. XXXXX after completion of these transfers shall be valued and distributed among the beneficiaries who did not receive *inter vivos* gifts from this parcel, or alternatively sold with proceeds distributed to ensure overall equality among all beneficiaries when *inter vivos* gifts are brought into account.

111. All accumulated funds in bank accounts and rental income collected by the administrators shall, after payment of verified estate debts, statutory obligations including any outstanding taxes, and reasonable legal fees as determined under the Advocates Remuneration Order, be distributed equally among all beneficiaries including Martha Teriki Limo.
112. The Court is satisfied that when *inter vivos* gifts are properly brought into account and when the net intestate estate is distributed equally among all beneficiaries, substantial equality will be achieved. Some beneficiaries received larger land allocations during the deceased's lifetime but the overall effect is that all children will have participated meaningfully in their father's estate. Let me emphasize that equality does not require mechanical uniformity but rather fairness in substance, taking into account what each beneficiary has already received and ensuring the final distribution achieves balance.
113. Going forward, the administrators shall comply strictly with the following accountability measures to ensure transparency and equitable distribution of rental income:
 - a. The administrators shall within thirty days establish or maintain one consolidated estate bank account in the names of all four administrators, namely William Kipkosgei Chelelgo and Andrew Kiptoo Limo representing the first house, and Isaiya Tirop Limo and Alice Jemutai Limo representing the second house, with all four designated as joint signatories.
 - b. Any transaction on this account shall require signatures of at least three.
 - c. All rental income from Eldoret Municipality Blocks 6/65, 7/98 and 7/12 shall be deposited exclusively into this account and no estate funds shall be maintained in any other account.
 - d. Within thirty days, each beneficiary including Martha Teriki Limo shall provide the administrators with their individual bank account details into which their share of rental income shall be paid.
 - e. The administrators shall thereafter establish standing orders from the estate account to automatically transfer each beneficiary's equal share of the net monthly rental income, calculated after deduction of verified operating expenses, statutory taxes, and essential maintenance costs, directly to each beneficiary's designated account not later than the fifteenth day of each month, depending on the dynamics of rental payments.
 - f. No single expenditure exceeding Kenya Shillings 100,000 shall be made without prior written consent of the majority of beneficiaries, and any beneficiary requesting copies of bank statements, tenancy agreements, standing order confirmations, or other estate documents shall be provided the same.
114. Accordingly, the following orders do abide:
 - a. The Grant of Letters of Administration Intestate issued on 17th May 2001 to William Kipkosgei Chelelgo and Andrew Kiptoo Limo is hereby revoked and an Amended Grant shall issue to William Kipkosgei Chelelgo, Andrew Kiptoo Limo, Isaiya Tirop Limo, and Alice Jemutai Limo as joint administrators of the estate.



- b. Within thirty days from the date of this judgment, the administrators shall establish one consolidated estate bank account in the joint names of all four administrators, requiring the signatures of at least three administrators for any transaction. All rental income from the commercial properties shall be deposited exclusively into this account, and no estate funds shall be maintained in any other account.
- c. Within sixty days from the date of this judgment, the administrators shall verify each of the forty-four creditor claims against LR No. XXXXXX by examining the underlying agreements, confirming payments made, and determining which transfers can be legitimately completed.
- d. During the same period, the administrators shall engage a qualified and independent valuer to assess the current market value of all farm equipment and machinery forming part of the estate.
- e. Thereafter, the administrators shall convene a meeting of all beneficiaries to determine by majority vote whether the farm equipment and machinery should be allocated to specific beneficiaries with appropriate cash adjustments to maintain equality, or alternatively sold with the proceeds distributed equally among all beneficiaries.
- f. The net monthly rental income from Eldoret Municipality Blocks 6/65, 7/98 and 7/12, after deduction of verified operating expenses, statutory taxes and essential maintenance costs, shall be distributed in equal shares as per paragraph 111 to all beneficiaries including Martha Teriki Limo not later than the fifteenth day of each calendar month.
- g. No single expenditure from estate funds exceeding Kenya Shillings One Hundred Thousand shall be incurred without the prior written consent of the majority of beneficiaries, and any beneficiary requesting copies of bank statements, tenancy agreements, receipts, or other estate documents shall be provided with the same within the shortest time possible on such request.
- h. In the end, a partial certificate of confirmation of grant shall be generated in the following terms:



No	Property	Beneficiary	Share
Eldoret Municipality Block 6/65 (0.0465 Ha)	William Kipkosgei Chehelgo, Anne Limo (legal representative of Samuel Kimutai Limo deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased), Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet (legal representative of Jane Jeruiyot Limo deceased), Abisaac Jelagat Limo, Lucky Biwott (legal representative of Jackline Jerotich Limo deceased), Alice Jemutai Limo, Penina Jepkemoi Limo and Martha Teriki Limo	Equal shares as tenants in common	
Eldoret Municipality Block 7/98 (0.0697 Ha)	William Kipkosgei Chehelgo, Anne Limo (legal representative of Samuel Kimutai Limo deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech (legal representative of	Equal shares as tenants in common	



	<p>Moses Kipkoech Limo deceased), Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet (legal representative of Jane Jeruiyot Limo deceased), Abisaac Jelagat Limo, Lucky Biwott (legal representative of Jackline Jerotich Limo deceased), Alice Jemutai Limo, Penina Jepkemoi Limo and Martha Teriki Limo</p>	
<p>Eldoret Municipality Block 7/12 (0.0697 Ha)</p>	<p>William Kipkosgei Chehelgo, Anne Limo (legal representative of the estate of Samuel Kimutai Limo deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased), Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet (legal representative of Jane Jeruiyot Limo deceased), Abisaac Jelagat Limo, Lucky</p>	<p>Equal shares as tenants in common</p>



	Biwott (legal representative of Jackline Jerotich Limo deceased), Alice Jemutai Limo, Penina Jepkemoi Limo	
Rental income from Blocks 6/65, 7/98 and 7/12	William Kipkosgei Chelelgo, Anne Limo (legal representative of Samuel Kimutai Limo deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased), Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet (legal representative of Jane Jeruiyot Limo deceased), Abisaac Jelagat Limo, Lucky Biwott (legal representative of Jackline Jerotich Limo deceased), Alice Jemutai Limo, Penina Jepkemoi Limo and Martha Teriki Limo	Equal monthly shares (after deduction of operating expenses, taxes and maintenance)
Kenya Commercial Bank Shares No. 1,814 (Account No. XXXXXXXXXX)	Martha Teriki Limo	Whole
Absa Bank Shares No.12,660	Martha Teriki Limo	Whole



(Account No. 29271)		
LR No. XXXXX	Andrew Kiptoo Limo	14.80 Ha
LR No. XXXXX	Japheth Henry Kipkurui Limo	14.80 Ha
LR No. XXXXX	Isaiya Tirop Limo	14.80 Ha
LR No. XXXXX	Samson Kibet Limo	14.80 Ha
LR No. XXXXX	Sammy Kimutai Limo	14.80 Ha
LR No. XXXXX	Martha Teriki Limo	7.40 Ha Life interest; remainder to Alice Limo, Peninah Jepkemboi Limo and Abisaac Limo in equal shares
LR No. XXXXX	William Kipkosgei Chelelgo	3.65 Acres
LR No. XXXXX	Anne Limo (legal representative of Samuel Kimutai Limo deceased)	3.65 Acres
LR No. XXXXX	Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased)	3.65 Acres
LR No. XXXXX	Mark Kipchirchir Limo	3.65 Acres
LR No. XXXXX	David Kibet Limo	3.65 Acres
LR No. XXXXX	Eldoret Water & Sanitation Company	31.79 Ha



LR No. XXXXXX - Balance after the gift <i>inter vivos</i> among the beneficiaries and verification of 44 creditor claims	To be distributed among beneficiaries who did not receive <i>inter vivos</i> gifts OR sold with proceeds distributed to ensure equality	To be determined after verification and valuation
Mosop/ Chepkorio/315	Mark Kipchirchir Limo	3.31 acres
Mosop/ Chepkorio/315	William Kipkosgei Chelelgo	2.96 acres
Mosop/ Chepkorio/315	David Kibet Limo	2.96 acres
Mosop/ Chepkorio/315	Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased)	2.96 acres
Mosop/ Chepkorio/315 - 1.5 acres	Irene Chebet Kimutai	Upon verification of agreement and payment (creditor claim)
Chepkorio Market Centre	Alice Jemutai Limo	Whole
Uasin Gishu/ Kaptagat/211 - 10.50 Ha	Eldoret Water & Sanitation Company	Whole
Uasin Gishu/ Kaptagat/211 - Balance after item 26	William Kipkosgei Chelelgo, David Kibet Limo, Hillary Kipchumba Kipkoech, Mark Kipchirchir Limo	As per verified <i>inter vivos</i> allocations
(Kituka Farm)	The estate of Philip Kiprono limo	1.25 Ha purchased from Kimani Karanja
Kapyego Wholesalers Shop	William Kipkosgei Chelelgo	Whole (confirmed <i>inter vivos</i> gift)



Balance of funds in all estate accounts after payment of legal fees and statutory obligations	William Kipkosgei Chelelgo, Anne Limo (legal representative of Samuel Kimutai Limo deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech (legal representative of Moses Kipkoech Limo deceased), Andrew Kiptoo Limo, David Kibet Limo, Henry Kipkurui Limo, Mark Kipchirchir Limo, Isaiah Tirop Limo, Rebecca Chebet (legal representative of Jane Jeruiyot Limo deceased), Abisaac Jelagat Limo, Lucky Biwott (legal representative of Jackline Jerotich Limo deceased), Alice Jemutai Limo, Penina Jepkemoi Limo and Martha Teriki Limo	Shared equally.
Centre Plots No. 43	Church Commission of Commission in trust of ACK St Barnabas Church Kormoto	0.432 Ha
Centre Plots No.44	David Kibet Limo and Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	0.1890 Ha



Centre Plots No.45	William Kipkosgei Chehelgo and Anne Limo legal representative in the estate of Samuel Kimutai Limo (Deceased)	0.2170 Ha as tenants in common
Centre Plots No.46	Isaya Tirop Limo and Henry Kipkirui Limo	0.1890 Ha as tenants in common
Centre Plots No.47	Samson Kibet Limo and Andrew Kiptoo Limo	0.2100 Ha as tenants in common
Centre Plots No.44	David Kibet Limo and Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo (Deceased)	0.1890 Ha
Centre Plots No.45	William Kipkosgei Chehelgo and Anne Limo legal representative in the estate of Samuel Kimutai Limo (Deceased)	0.2170 Ha as tenants in common
Centre Plots No.46	Isaya Tirop Limo and Henry Kipkirui Limo	0.1890 Ha as tenants in common
Centre Plots No.47	Samson Kibet Limo and Andrew Kiptoo Limo	0.2100 Ha as tenants in common
Centre Plots No.48	Mark Kipchirchir Limo and Julius Kipkorir Chehelgo	0.3704 Ha as tenants in common
Strawbag Shop No.49 (Room 1 & 2)	Hillary Kipchumba Kipkoech legal representative of	Cooperative Society Shop



	Moses Kipkoech Limo (Deceased)	
Strawbag Shop No.2 (Room 3 &4)	David Kibet Limo	Drycleaners shop
Strawbag Shop No3. (Room 5&6)	Anne Limo legal representative of Samuel Kimutai Limo (Deceased)	Bridal Shop
Strawbag Shop No.4	Martha Teriki Shop	Haron Kiptoo Shop
Strawbag Shop No.5	Martha Teriki Shop	Teriki Shop
Strawbag Shop No.6 (Room 7 & 8)	William Kipkosgei Limo	Cooperative shop
Strawbag Shop No.7	Henry Kipkirui Limo	Julia Shop
Strawbag Shop No.8	Samson Kibet Limo	Sena Chemist
Strawbag Shop No.9.	Isuya Tirop Limo	Tirop Store
Strawbag Shop No.10	Andrew Kiptoo Limo	Malot Stores
Strawbag Shop No.11	Mark Kipchirchir Limo	Malot Shop
Hotel Plot (Plot No. 1061) measuring approximately 2.5 acres to be excised from LR No. XXXXX (IR No.19086) Measuring 349 Acres	William Kipkosgei Chelelgo, Anne Limo legal representative of Samuel Kimutai Limo (deceased), Samson Kibet Limo, Hillary Kipchumba Kipkoech legal representative of	To be valued, sold and proceeds shared equally
Rooms 1 to 13 and Room 29	House No.1 Martha Teriki Limo, Samson	Tenants in common



	Kibet Limo, Andrew Kiptoo Limo, Henry Kipkurui Limo, Isaiah Tirop Limo, Abisaac Jelagat Limo, Alice Jemutai Limo, Penina Jepkemoi Limo	
Rooms 14 to 28	House No. 2 William Kipkosgei Chehelgo Anne Limo legal representative of Samuel Kimutai Limo (Deceased), Hillary Kipchumba Kipkoech legal representative of Moses Kipkoech Limo, Mark Kipchirchir Limo and David Kibet Limo	Tenants in common

115. Orders accordingly.

DELIVERED, DATED AND SIGNED VIA CTS AT ELDORET ON 6TH OCTOBER, 2025

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R. NYAKUNDI

JUDGE

