



**In re Estate of Kipruto Arap Towett (Deceased) (Succession Cause 77 of 2016) [2025] KEHC 13515 (KLR) (1 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13515 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
SUCCESSION CAUSE 77 OF 2016  
JK NG'ARNG'AR, J  
OCTOBER 1, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE KIPRUTO ARAP TOWETT (DECEASED)**

**BETWEEN**

**JULIANA TOWETT ..... 1<sup>ST</sup> APPLICANT**

**PETER KIPNGETICH RUTO ..... 2<sup>ND</sup> APPLICANT**

**AND**

**CATHERINE CHEPNGENO TOWETT ..... RESPONDENT**

**RULING**

1. The Applicants filed a Notice of Motion Application dated 12<sup>th</sup> May 2025 which sought the following orders: -
  - i. Spent.
  - ii. that this Honourable Court be pleased to enjoin the 1<sup>st</sup> and 2<sup>nd</sup> Applicants as Administrators of the estate of the deceased alongside the Petitioner.
  - iii. that this Honourable Court be pleased to issue Grant of Letters of Administration to the 1<sup>st</sup> and 2<sup>nd</sup> Applicants to jointly administer the estate of the deceased alongside the Petitioner.
  - iv. that the Grant issued to the Petitioner and the 1<sup>st</sup> and 2<sup>nd</sup> Applicants herein be confirmed before the lapse of the statutory period of six (6) months.
  - v. that pending the hearing and determination of this matter, this Honourable Court be pleased to issue orders restraining the Petitioner, beneficiaries and/or any other person acting under their instructions from demarcating, defacing, subdividing and/or disposing any portion from the deceased's land known as Kericho/Itembe/486.



- vi. that the Petitioner and/or beneficiaries of the estate of the late Kipruto Arap Towett by themselves, agents, representatives, assignees, employees, servants be restrained from selling, attempting to sell, interfering and/or intermeddling with the estate of the deceased known as Kericho/Itembe/486 pending the conclusion of this succession matter.
  - vii. That this Honourable Court be pleased to issue a temporary order restraining the Petitioner and/or all other beneficiaries from selling, leasing, erecting any structures and/or allocating portions of the estate of the deceased to third parties pending the hearing and determination of this matter.
  - viii. That this Honourable Court be pleased to issue an order directing the Officer Commanding Station, Kapkwen Police Station to provide security for surveyors during the survey exercise
  - ix. that this court be pleased to issue any necessary directions.
2. The Application was brought under section 1A, 1B and 3A of the *Civil Procedure Act* and Article 159(2) of *the Constitution* of Kenya. It was based on the grounds on the face of the Application and further by the Supporting Affidavit sworn by Juliana Towett on 12<sup>th</sup> May 2025.

### **The Applicants' case.**

3. The 1<sup>st</sup> Applicant stated that she was the second widow of the late Kipruto Arap Towett who was the registered owner of Kericho/Itembe/486. That the Respondent petitioned this court for Grant of Letters of Administration and the same was granted on 23<sup>rd</sup> February 2017 and confirmed on 22<sup>nd</sup> September 2017. The 1<sup>st</sup> Applicant further stated that she filed for revocation of the Grant and the same was revoked by this court on 28<sup>th</sup> April 2025.
4. It was the 1<sup>st</sup> Applicant's case that this court made a finding that she was legally married to the deceased and was thus entitled to be an administrator of the deceased's estate. That currently, there was no administrator of the deceased's estate as the Grant had been revoked.
5. The 1<sup>st</sup> Applicant stated that members of the second house no longer had faith in the Respondent as the administrator as she failed to include all the beneficiaries in the instant proceedings. That the Respondent and members of her family had disposed of a huge portion of the estate and needed to be restrained so as to preserve the estate. The 1<sup>st</sup> Applicant further stated that some portions of the deceased's estate had been subjected to excavation.
6. It was the 1<sup>st</sup> Applicant's case that they needed to conduct a survey exercise on the deceased's estate and the same could not be done without the provision of security. That members of the Respondent's family were violent and had previously attacked members of the 1<sup>st</sup> Applicant's family. It was the 1<sup>st</sup> Applicant's further case that two of the Respondent's sons had been charged with the offence of grievous harm vide Bomet Criminal Case Number E165 of 2025.
7. Through their written submissions dated 20<sup>th</sup> July 2025, the Applicants submitted that she was the second wife of the deceased and had a right to be an administrator of the deceased's estate. That before the Grant was revoked, the Respondent had subdivided the estate amongst her children and left out the second family and it would be chaotic if the Respondent were to remain the sole administrator of the estate.
8. It was the Applicants' submission that this court ought to confirm the Grant once it has been issued. That this matter had been in court for a period of 9 years and that all beneficiaries had sufficient



notice of the proceedings. It was their further submission that waiting for another 6 months before confirmation would cause unnecessary delay.

9. The Applicants submitted that there was a realistic fear that the deceased's estate might be disposed off by the Respondent and her family as the Applicant and her family were not currently in occupation. That it was prudent that the estate be preserved. They relied on section 45 and 47 of the Law of Succession Act, Rul3 73 of the Probate and Administration Rules and *Floris Piezzo & another vs Gian Carlos Falasconi* (2014) eKLR.
10. It was the Applicants' submission that this court ought to order the OCS, Kapkwen Police Station to provide security for surveyors during the survey exercise as the Respondent and her family had proven to be hostile.
11. I have carefully gone through the record and I have noted that the Respondent had neither filed her reply to the instant Application nor had she filed her submissions. This was despite this court's directions on 14<sup>th</sup> May 2025 and 21<sup>st</sup> July 2025 to have the Respondent file her reply and submissions. Additionally, I have seen an Affidavit of Service dated 20<sup>th</sup> July 2025 indicating that the Respondent had been served with the present Application on 15<sup>th</sup> May 2025. It is my finding therefore that the Application was unopposed.
12. Having said that and having gone through the record, the Notice of Motion Application dated 12<sup>th</sup> May 2025 and the Applicants' written submissions dated 20<sup>th</sup> July 2025, the only issue for determination was whether the Application had merit.
13. In relation to the prayer by the Applicants to have them enjoined as co-administrators, this court revoked the Grant dated 23<sup>rd</sup> February 2017 that was issued to the Respondent. In my Judgement dated 28<sup>th</sup> April 2025, I made a finding that the 1<sup>st</sup> Applicant was the wife of the deceased. That said, it was an undisputed fact that the Respondent was the deceased's first wife. Additionally, from the record, Peter Kipngetich Ruto (2<sup>nd</sup> Applicant) was the 1<sup>st</sup> Applicant's son and therefore a beneficiary of the deceased's estate as envisioned by section 29 of the Law of Succession Act. In the interest of justice, it is my finding that it would be prudent to have representatives from both houses as joint administrators of the deceased's estate. I shall make the necessary orders at the end of this Ruling.
14. In relation to the prayer to have the Grant issued and immediately confirmed, section 71(3) of the Law of Succession Act provides: -
  - The court may, on the application of the holder of a grant of representation, direct that such grant be confirmed before the expiration of six months from the date of the grant if it is satisfied-
  - (a) that there is no dependant, as defined by section 29, of the deceased or that the only dependants are of full age and consent to the application;
  - (b) that it would be expedient in all the circumstances of the case so to direct.
15. The above provision of the law is self-explanatory. In the present case, there are dependants of the deceased's estate. However, as earlier noted, there was no objection/response to the present Application. In the circumstances of the case, having checked the record, I have noted that the inception of these proceedings was on 26<sup>th</sup> September 2016 and I have also noted from the Respondent and her family had signed a consent to obtain Grant of Letters of Administration on 20<sup>th</sup> September 2016. This meant that they were aware of the succession proceedings. Anchored by section 71 (3) (b) of the Law of Succession Act, I accept the Applicants' explanation that the matter had been in court for



over 9 years and waiting for another 6 months to confirm the Grant would cause an unnecessary delay. I shall make the necessary order at the end of this Ruling.

16. Before I pen off, it is salient to state that section 47 of the *Law of Succession Act* provides: -

The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient .....

17. Rule 73 of the Probate and Administration Rules provides: -

Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.

18. In light of the above and in the final analysis, I make the following orders: -

- i. A Grant is issued in the names of Catherine Chepngeno Towett, Julian Towett and Peter Kipngetich Ruto.
- ii. In accordance to section 71(3) of the *Law of Succession Act*, the said Grant is confirmed before the expiry of 6 months.
- iii. that pending survey of the deceased's estate, Kericho/Itembe/486, the estate be preserved and all the beneficiaries are restrained from demarcating, defacing, subdividing, selling, leasing and erecting any structures on the deceased's estate.
- iv. That the Officer Commanding Station, Kapkwen Police Station provide security for the surveyors during the survey exercise.
- v. The joint administrators shall file in this court a full and accurate inventory of the estate of the deceased.
- vi. The joint administrators shall take the necessary steps towards agreeing on the mode of distribution.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 1<sup>ST</sup> DAY OF OCTOBER, 2025.**

.....  
**HON. JULIUS K. NG'ARNG'AR**

**JUDGE**

Ruling Delivered in the presence of;

Susan/Siele Court Assistant

Kosgei for petitioner/Respondent

Koech for 1<sup>ST</sup> Objector/Applicant

No Appearance for 2<sup>nd</sup> Objector/Applicant

