



**Lelei v Arusei & another; Bett & another (Interested Parties) (Probate & Administration 1 of 2023) [2025] KEHC 14795 (KLR) (14 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14795 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAPSABET  
PROBATE & ADMINISTRATION 1 OF 2023**

**JR KARANJA, J**

**OCTOBER 14, 2025**

**IN THE MATTER OF THE ESTATE OF LATE SILAS  
KIPNGETICH ARUSE ALIAS SILA A. ARUSI (DECEASED)**

**BETWEEN**

**ESTHER CHEPKORIR LELEI ..... APPLICANT**

**AND**

**HELLEN CHEPNGETICH ARUSEI ..... 1<sup>ST</sup> PETITIONER**

**DANIEL KIPNGERICH ARUSEI ..... 2<sup>ND</sup> PETITIONER**

**AND**

**SOLOMON KIPKEMBOI BETT ..... INTERESTED PARTY**

**BETHUEL KIPROTICH BETT ..... INTERESTED PARTY**

**RULING**

1. The application dated 12<sup>th</sup> July 2024 is made essentially under Section 76 of the [Law of Succession Act](#) seeking orders for revocation of the grant issued herein on the 17<sup>th</sup> November 2023 to the two Petitioners/ Respondents, Hellen Chepngetich Arusei and Daniel Kipngetich Arusei, respecting the estate of the Late Silas Kipngetich Arusei also known as Silla A. Arusei or Sila Kipngetich Arusei [deceased].
2. The deceased passed away on 12<sup>th</sup> December 1996 and was survived by a widow [First Petitioner] and thirteen [13] children inclusive of seven [7] sons and six [6] daughters. He left behind immovable assets consisting of Land Parcel No. Nandi/Kapsabet/Salient/192, Nandi/Surungai/413 and Nandi/Surungai/468 all of which had liabilities as specified in the affidavit in support of the petition for Letters of Administration intestate [form P & A 5] dated 9<sup>th</sup> August 2023.



3. The summons for the confirmation of the grant was taken out on 22<sup>nd</sup> February 2024 after all the beneficiaries had agreed on the proposed mode of distribution and affixed their respective signature/ thumbprint on the Consent Form No. 37B.

The grant was therefore confirmed on 11<sup>th</sup> July 2024 and a certificate of confirmation of grant was accordingly issued on 12<sup>th</sup> July 2024.

4. The mode of distribution of the entire estate was spelt out in paragraph five [5] of the affidavit in support of confirmation dated 22<sup>nd</sup> February 2024.

All proceeded smoothly until the 12<sup>th</sup> July 2024 when the present summons for revocation of the grant was presented herein by the Applicant/ objector, Esther Chekorir Lelei, widow of Kiptot Kiplelei Samuel [deceased] said to be a brother of the deceased herein.

5. The grounds for the application are set out in the summons for revocation of the grant and fortified by the Applicant's averments in the supporting affidavit dated 12<sup>th</sup> July 2024.

In essence, the Applicant alleges that the grant was obtained fraudulently by making of a false statement and without taking into consideration other beneficiaries inclusive of the Applicant since the estate was to be sub-divided equally between the estates of the deceased herein and that of the Late Kiptot Kiplelei Samwel, both of whom were brothers.

6. In the supporting affidavit, the Applicant avers that the Late Kiptot Kiplelei Samuel was her husband as depicted in the Chief's letter dated 7<sup>th</sup> October 2019 annexed to the affidavit which also shows that the couple had six children comprising of five daughters and one son.

The Applicant also avers that the estate property Nandi/Kipkaren/Salient/192 was jointly owned by her late husband and the deceased herein with each of them entitled to 19.375 acres as per a resolution of the elders made on 7<sup>th</sup> March 1989, but the Petitioners misled the court that the deceased owned 22.8 acres.

7. Solomon Kipkemboi Bett and Bethuel Kiprotich Bett were enjoined in these proceedings as interested parties. They deponed an affidavit dated 17<sup>th</sup> June 2025 seemingly in support of and opposition to the present application on the basic ground that the Petitioners misled the court by concealing the fact that the material Parcel No. Nandi/Kipkaren/Salient/192 was jointly owned by the deceased herein, the Late husband of the Applicant and their father, the Late Kibet Arap Samoei who owned 12½ acres of the land having purchased seven [7] acres thereof from the deceased and five and a half acres [5½] from the late husband of the Applicant.

8. The interested parties averred that the Petitioners concealed facts by their failure to disclose that the estate of their late father had a purchaser's interest in the material estate property, but they raised no objection to these succession proceedings since they related to the 22.8 acres of the land occupied by the estate of the deceased. They [interested parties] also averred that they are in opposition to the present application only to the extent that it does not recognize the estate of their late father who had a registered interest of 12½ acres of land.

9. In opposition to the application, the Petitioners through the Second Petitioner averred in their affidavit dated 4<sup>th</sup> November 2024 that the Applicant is only disputing the acreage of the material parcel of land as reflected in the mode of distribution of the estate to wit, 22.8 acres and as such the application is overtaken by events as it was filed long after the transmission forms were registered at the lands office. However, they [Petitioners] are ready and willing to rectify the confirmed grant to reflect any changes in the acreage and the entitlement of each proprietor.



10. All the parties filed their written submissions to buttress their respective positions and averments contained in both the supporting and replying affidavits.

This court considered the application on the basis of the supporting grounds and the rival submissions and noted that the bone of contention between the applicant and the Petitioners is the size or total measurement of the material estate property i.e. Nandi/Kipkaren Salient/192. The Applicant feels that she has been short changed by the Petitioners in as much as they have distributed between themselves more than their lawful entitlement to the land, in that they are entitled to 19.375 acres of the land but have instead allocated to themselves and the entire estate of the deceased 22.8 acres of the land.

11. As between the Petitioners and the interested parties the bone of contention is that the Petitioners concealed material facts by their none disclosure of the interested parties purchaser's interest in the land and as between the Applicant and the Interested Parties the bone of contention is that the Applicant is misleading the court by suggesting that the material parcel of land be shared equally between the estate of the deceased and that of the late husband of the Applicant in exclusion of the estate of the late father of the interested parties.

12. Basically, providing misleading information and/or statements and concealing material facts by an Applicant in an application for confirmation of grant would attract annulment and/or revocation of a grant whether or not confirmed in terms of Section 76 [b] of the Succession Act.

The Petitioners in their affidavit dated 4<sup>th</sup> November 2024 do not dispute the fact that they provided misleading statements and concealed material facts with regard to actual ownership of the material Parcel No. Nandi/Kipkaren/Salient/192 and its actual size for purposes of fair distribution vis-à-vis the Applicant's and Interested Parties' interests in the land.

13. In fact, the Petitioners conceded the allegation made against them by the Applicant and the Interested Parties as demonstrated in paragraphs [8] and [9] of their affidavit where they state that they are willing to re-survey the material parcel of land and ascertain the acreage and entitlement of each proprietor thereof. This is an admission that the property was jointly owned by the deceased and two others i.e. the late husband of the Applicant and the late father of the Interested Parties vide his purchaser's interest.

14. Paragraph [9] of the Petitioners' affidavit indicates that upon re-survey of the material property the Petitioners are ready and willing to rectify the confirmed grant issued on 12<sup>th</sup> July 2024 to reflect any changes in the acreage that would have been brought forth by the surveyor's report. They would rather have the grant rectified than revoked.

15. From all the foregoing it is evident and clear that the dispute between the parties is on the distribution of the material parcel of land as reflected in the impugned summons for confirmation of grant. There is no dispute with regard to the process of obtaining the grant and its issuance.

The dispute is essentially with regard to the process of applying for and distributing the material property only.

16. In the circumstances, the application succeeds only to the extent that the confirmed distribution respecting Parcel No. Nandi/Kipkaren/Salient/192 be set aside and is hereby set aside with the result that the impugned certificate of confirmation of grant dated 12<sup>th</sup> July 2024 is hereby wholly vacated or revoked to pave way for fresh summons for confirmation of grant confined exclusively to the rightful share of the deceased in the dispute property in terms of the actual size.

17. For the avoidance of doubt it is only the certificate of confirmation of grant which is hereby revoked and not the grant issued to the Petitioners on the 17<sup>th</sup> November 2023 who are hereby directed to move with speed and file a fresh summons for confirmation of grant for ultimate distribution of the estate



of the deceased among the rightful beneficiaries. The matter shall in that regard be given a mention date on status and way forward.

Ordered accordingly.

**DELIVERED AND DATED THIS 14<sup>TH</sup> DAY OF OCTOBER, 2025.**

**HON. J. R. KARANJAH,**

**JUDGE**

