



REPUBLIC OF KENYA



**In re Estate of Kimngeny Arap Mainga (Deceased) (Succession Cause 65 of 2016) [2025] KEHC 16169 (KLR) (11 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16169 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
SUCCESSION CAUSE 65 OF 2016  
JK NG'ARNG'AR, J  
NOVEMBER 11, 2025  
IN THE MATTER OF THE ESTATE OF KIMNGENY ARAP MAINGA (DECEASED)**

**BETWEEN**

**SAMWEL KIPRUTO KORIR ..... APPLICANT**

**AND**

**STEPHEN NGENY ..... RESPONDENT**

**RULING**

1. In this matter, the Applicant and Kibii Arap Ngeny as sons of the deceased petitioned for Letters of Administration Intestate on 26<sup>th</sup> August 2016. A Grant was issued in her name on 31<sup>st</sup> January 2017. A Rectified Certificate of Confirmation of Grant was issued on 3<sup>rd</sup> March 2025.
2. The Applicant filed Summons for Revocation of the Grant dated 4<sup>th</sup> April 2025. The Objector wanted the rectified Certificate of Grant revoked on the ground that it was obtained fraudulently through making false statements to the court.

**The Objection**

3. Through his Supporting Affidavit dated 4<sup>th</sup> April 2025, the Applicant stated that one of the liabilities of the deceased's estate, Janet Cherono filed an Application in relation to Kericho/Silibwet/67. That the family undertook mediation and it was agreed that Janet would get half of Kericho/Silibwet/67 and the other half would go to Jeremiah Kiprotich Ngeny.
4. It was the Applicant's case that he was surprised when he was served with a Rectified Grant because they had not filed any mode of distribution. That upon perusing the court file, he noticed a filed schedule of distribution dated 5<sup>th</sup> March 2025 purportedly signed by himself and his co-administrator, Kibii Arap Ngeny. It was the Applicant's further case that they Respondent was not entitled to any share of Kericho/Silibwet/67 as he had irregularly allocated himself 0.15 acres.



5. The Applicant stated that since two daughters of the deceased had not been provided for, the family agreed that the remaining 0.125 acres held by Jeremiah Kiprotich Ngeny be sold and the proceeds be shared among the three of them. The Applicant further stated that he had reported the forgery of his signature at Bomet Police Station.
6. The Applicant filed a further Affidavit dated 25<sup>th</sup> September 2025 and stated that the Respondent did not address the contents of his Application. That he did not address how he allocated himself 0.15 acres contrary to the Mediation Agreement and had not mentioned anything regarding the forged signatures.
7. Through his written submissions dated 25<sup>th</sup> September 2025, the Applicant submitted that parties went to mediation and reached a full agreement. That the Respondent forged documents and sought rectification of the Grant without the consent of the other beneficiaries.
8. It was the Applicant's case that the Certificate of Confirmation of Grant was obtained fraudulently without the Applicant's knowledge. That they never signed any consent and did not attend court for the hearing of rectification of the Grant. It was the Applicant's further case that the Respondent applied for rectification of the Grant using forged documents and further that the rectified Grant was not in tandem with the Mediation Agreement dated 8<sup>th</sup> November 2024.
9. The Applicant submitted that the Certificate of Grant was obtained irregularly, unprocedurally and fraudulently by material non-disclosure. He relied on section 76 of the [Law of Succession Act](#), in the matter of the estate of L.A.K (Deceased) (2014) eKLR et.al.

## Response

10. Through his Replying Affidavit, the Respondent stated that he was the deceased's son and that the Grant was obtained by concealment of facts. That his siblings including Esther Langat, Juliana Soi, Hellen Tonui, Janet Chepmutai, Geoffrey Kipkoech, Janet Cheron, William Ngeny and Samwel Ngeny were not listed as beneficiaries. That the estate had been distributed unfairly as there was unequal distribution. The Respondent further stated that Kericho/Silibwet/67 had been interfered with and subdivided into Kericho/Silibwet/4766 and Kericho/Silibwet/4767 in the name of Betty Chepkemoi who was a stranger to the estate.
11. It was the Respondent's case that the Grant should be evoked and new administrators appointed.
12. Through his written submissions dated 19<sup>th</sup> September 2025, the Respondent submitted that several beneficiaries were left out during confirmation and this amounted to deliberate concealment. He relied on section 76 of the [Law of Succession Act](#) and in the estate of Julius Mimano (2019) eKLR. The Respondent further stated that Article 27 of [the Constitution](#) of Kenya guaranteed equality and non-discrimination. That the distribution of the deceased's estate was unequal. He relied on section 38 of the [Law of Succession Act](#) and Rono v Rono (2005) eKLR.
13. It was the Respondent's submission that Kericho/Silibwet/67 was subdivided into Kericho/Silibwet/4766 and Kericho/Silibwet/4767 and that amounted to intermeddling contrary to section 45 of the [Law of Succession Act](#). It was the Respondent's further submission that the court had discretion to remove the administrators and reliance was placed on re estate of M'Mbijiwe M'Itunga (Deceased) (2018) eKLR.
14. The Respondent submitted that the Grant should be revoked, the administrators removed and new ones appointed.



15. I have gone through the record, the Summons for Revocation dated 4<sup>th</sup> April 2025, the Replying Affidavit filed on 16<sup>th</sup> July 2025, the Applicant's Further Affidavit and written submissions both dated 25<sup>th</sup> September 2025 and the Respondent's written submissions dated 19<sup>th</sup> September 2025. The sole issue for my determination was whether there were sufficient grounds to revoke the Grant dated 31<sup>st</sup> July 2017.

16. Section 76 of the *Law of Succession Act* which states that: -

A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion-

- (a) that the proceedings to obtain the grant were defective in substance;
- (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
- (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
- (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-
  - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
  - (ii) to proceed diligently with the administration of the estate; or
  - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
- (e) that the grant has become useless and inoperative through subsequent circumstances.

17. I have noted a preliminary issue with the Application. The Applicant asked this court to revoke the rectified Certificate of Grant dated 3<sup>rd</sup> March 2025. Kemei J. in re Estate of Kiberenge Mukwa (Deceased) [2021] KEHC 1392 (KLR) correctly held: -

“A certificate of confirmation of a grant is not a grant of representation, but a certificate to the effect that the grant had been confirmed by the court. The discretion given to the court by the provisions in section 76 of the *Law of Succession Act* is for revocation of grants of representation, not certificates that confirm those grants. There is therefore no power in those provisions for the court to revoke a certificate of confirmation of grant. As can be seen from the outset, the said appeal stands on shaky ground.

.....I am being invited to revoke a certificate of confirmation of grant. The certificate is not an order of the court. A certificate is not a judicial order. It is an extract from a court order made in the confirmation proceedings. The certificate is generated from the court order. It is important for the parties to differentiate between the character of a grant of representation and a certificate of confirmation of grant. A grant is a court order; it is a judicial pronouncement to the effect that some person has been appointed as administrator and granted the power to act as such. The certificate of confirmation of grant on the other side merely certifies that orders have been made to confirm the grant. The certificate of



confirmation of grant is not the order itself but a confirmation that the grant has been confirmed and the shares of the beneficiaries ascertained.”

18. Similarly, in re Estate of Prisca Ong’ayo Nande (Deceased) [2020] KEHC 6553 (KLR), Musyoka J. held: -

“.....A certificate of confirmation of grant is akin to that order or decree that is extracted from a ruling or judgement made by a court; it is an extract of the orders that the court makes on an application for confirmation of grant. Quite clearly, therefore, a certificate of confirmation of grant is not a grant of representation, and for that reason it is not available for revocation under section 76 of the *Law of Succession Act*.

In any event, as the certificate of confirmation of grant is a mere formal expression of the orders made by the court on a confirmation application, the revocation of the certificate, if at all it is revocable under section 76, which I continue to assert that it is not, would be of little consequence, for it is only the certificate that would be affected by such an revocation order, since the orders on confirmation, from which it is extracted would remain intact. The certificate is a mere extract, its revocation would not affect its source, the orders of confirmation of grant. A grant of representation is not equivalent to a certificate, it is not an extract from some order, and it is the order itself, appointing administrators, and it is the court granting representation. The orders on confirmation of a grant remain unaffected by a revocation or annulment of the certificate of confirmation of grant. The proper thing to do should be to have the confirmation orders vacated and thereafter the certificate of confirmation of grant annulled, following the setting aside of the orders from which it draws its life. Otherwise, failure to vacate the orders would mean that a fresh certificate could still be extracted from the same orders. The confirmation and the certificate are two separate or different things.”

19. I have considered the Application for revocation dated 4<sup>th</sup> April 2025 and found that the whole Application was premised on the process that led to the issuance of the rectified Certificate of Grant. The Applicant’s main contention was that the Respondent forged his signature and presented forged documents to the court before it rectified the Grant. As the authorities have stated above, to which I fully concur, section 76 of the *Law of Succession Act* was not available for revoking Certificates of Confirmation of Grant, but was only available to impugning the process of obtaining the Grant itself. In the instant case, the Application did not impugn the process that led to the issuance of the Grant but largely focused on the rectified Certificate of Grant.
20. In the end, the Application dated 4<sup>th</sup> April 2025 has no merit and is dismissed. Each party to bear their own costs.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 11<sup>TH</sup> DAY OF NOVEMBER, 2025.**

.....

**HON. JULIUS K. NG’ARNG’AR**  
**JUDGE**

Ruling delivered in the presence of:

Siele/Susan (Court Assistants).

ChirChir for the Petitioner/Applicant



C.Kosgei for the Respondent

