



**In re Estate of Kipsoi Arap Chepkoimet (Deceased) (Succession Cause 2 of 2017) [2025] KEHC 16389 (KLR) (11 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16389 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
SUCCESSION CAUSE 2 OF 2017  
JK NG'ARNG'AR, J  
NOVEMBER 11, 2025**

**IN THE MATTER OF THE ESTATE OF KIPSOI ARAP CHEPKOIMET (DECEASED).**

**BETWEEN**

**JOHANA KIPKIRUI SOI ..... APPLICANT**

**AND**

**ANYESI CHEPKOIMET ..... RESPONDENT**

**RULING**

1. The only outstanding matter in this suit was the distribution of Transmara/Njipiship/1080 among the beneficiaries of the deceased's estate.
2. In his Application dated 5<sup>th</sup> May 2021, the Applicant sought rectification of the Respondent's share in Transmara/Njipiship/1080 from 2.6b hectares to 2.6 acres. In its Ruling dated 24<sup>th</sup> April 2024, this court declined to rectify the Grant and directed that a surveyor do survey the subject parcel and that the survey should give effect to this court's Ruling dated 29<sup>th</sup> April 2020 and the Minutes of the family meeting held on 8<sup>th</sup> March 2019.
3. The court directed the parties to file their submissions in respect to the division of Transmara/Njipiship/1080.

**Petitioner's/Applicant's submissions.**

4. Through his written submissions dated 18<sup>th</sup> July 2025, the Applicant submitted that during the initial survey, the Respondent was absent from the suit parcel and had not been chased away. That the initial estimate of 2.6 acres was an approximation owing to the overgrown thicket on the land.
5. It was the Applicant's submission that following this court's order, a joint resurvey was conducted on 16<sup>th</sup> May 2024 by Mr. Tororei and all beneficiaries including the Respondent were present. That



the surveyor confirmed that in order to provide proper access roads, the Respondent's portion was adjusted from the estimated 2.6 acres to 3.2 acres and that the adjustment reflected the true position on the ground. It was the Applicant's further submission that following the re-survey, all the beneficiaries save for the Respondent convened a peaceful meeting at the Chief's office where they reaffirmed their acceptance of the distribution as captured in the schedule of distribution dated 23<sup>rd</sup> October 2024.

6. The Applicant submitted that the Respondent's claim of 6,4 acres was exaggerated and baseless. That her unilateral commissioning of a separate survey which excluded other beneficiaries was against this court's order.

### **Objector's/Respondent's submissions**

7. Through her written submissions dated 26<sup>th</sup> September 2025, the Respondent submitted that she averred in a family meeting held on 8<sup>th</sup> March 2019 that she had been allocated 10.1 acres of Transmara/Njipiship/1080 and this was confirmed through the Survey Report dated 26<sup>th</sup> January 2022. That the Applicant and other beneficiaries proceeded to unlawfully destroy the established boundaries of the said parcel and had threatened to hinder her peaceful enjoyment of the parcel.
8. It was the Respondent's submission that the Minutes of the family meeting indicated that the deceased had subdivided his estate before his death and further that this court made a finding that she be allocated 2.6 hectares of Transmara/Njipiship/1080. That the 2.6 hectares she was allocated was as per the deceased's wishes and should not be subjected to any further rectification or amendment. She relied on the estate of the late Morogo A. Mugun alias Moroko Mukumu (2019) eKLR.
9. The Respondent submitted that the Applicant failed to conduct a joint survey as directed by this court and therefore the joint survey report and the schedule of distribution dated 23<sup>rd</sup> October 2024 were neither a true reflection of the deceased's wishes nor did they give effect to the Minutes of the family meeting. That the Respondent faced hostility from the Applicant and was chased away during the survey process and could not take part in the survey.
10. I have considered the court record, the Land Survey Report filed on 15<sup>th</sup> July 2024, the Applicant's written submissions dated 18<sup>th</sup> July 2025 and the Respondent's written submissions dated 26<sup>th</sup> September 2023. The only issue for my determination was the proper and just distribution of Transmara/Njipiship/1080.
11. As earlier stated, this court directed a joint survey be conducted on Transmara/Njipiship/1080 taking into account this court's Ruling dated 29<sup>th</sup> April 2020 and the Minutes of the family meeting. In this court's Ruling dated 29<sup>th</sup> April 2020, it was held that the deceased had distributed his estate to his beneficiaries in his lifetime and as such the court allocated the Respondent 2.6 hectares in Transmara/Njipiship/1080. In the referenced family meeting held on 8<sup>th</sup> March 2019, the Minutes indicated that the parties were not in agreement on how to share Transmara/Njipiship/1080 and it was necessary for a surveyor to visit the parcel and conduct a survey.
12. What necessitated the Application for rectification was the Applicant's averment that the Respondent ought to have received 2.6 acres of Transmara/Njipiship/1080 as opposed to 2.6 hectares. This court declined to rectify the Grant indicating that rectifying the Grant as prayed did not amount to a small error but amounted to sweeping changes in the mode of distribution. This is what necessitated the order for the joint survey. At this juncture, it is important to state that the Respondent could not rely on the Survey Report dated 26<sup>th</sup> January 2022 as it had been overtaken by events.
13. On the record is a Land Survey Report conducted by Mr. Tororei and filed on 15<sup>th</sup> July 2024. The Applicant submitted that the survey was done in the presence of the Respondent, a submission that



the Respondent denied. The Respondent submitted that on the material day, she was chased away by the Respondent and was unable to participate in the survey process. It was clear from the record that the deceased had already distributed his estate and his beneficiaries including the Respondent were currently in occupation and use of the parcel. The court will be minded to respect the wishes of the deceased in respect to the distribution of his estate. In *Murumba v Natili* [2023] KEHC 18759 (KLR), the court held: -

“.....The Court is bound to respect the wishes of the deceased on how his children share his possession after death.”

14. Similarly, the Court of Appeal in *Margaret Wanja Elija v Peter Ngari Elijah Kimani* [2013] KECA 393 (KLR) held: -

“.....There is nothing in the *law of succession Act* cap 160 laws of Kenya which authorizes a court of law to disregard a deceased person’s wishes on how his estate is to be distributed especially where the same is within the parameters permitted by the said succession Act, and it is also fair to the satisfaction of the court and all or a majority of the beneficiaries of the deceased’s’ estate....”

15. This being a court of record, I am obliged to rely on the evidence availed before it. As stated earlier, the Respondent’s reliance on the Survey Report dated 26<sup>th</sup> January 2022 was misplaced as it had been overtaken by events. The only evidence before me is the Survey Report filed on 15<sup>th</sup> July 2024. I have noted that the Applicant has referred to a schedule of distribution dated 23<sup>rd</sup> October 2024 that he wishes this court to rely on. I have carefully looked at the record and on the CTS and I find no evidence of the existence of the said schedule of distribution.

16. In the end, it is my finding that Transmara/Njipiship/1080 will be distributed as per the Survey Report filed on 15<sup>th</sup> July 2024. For avoidance of doubt, the distribution is as follows: -



NO	NAME	AREA
1.	Edwin Kipyegon Koech	3.57 acres
2.	Benard Koech Cheruiyot	3.77 acres
3.	Charles Kimutai Koech	3.57 acres
4.	Gideon Kiplangat Koech	3.57 acres
5.	Gabriel Koech Soi	3.0 acres and 7.7 acres
6.	Kiplangat Bii George	2.0 acres
7.	Alice Chepkitui Korir	2.8 acres
8.	Kipkemoi Leonard	2.8 acres
9.	Langat Cheruiyot Bethuel	1.0 acre
10.	Mutai Nickson	4.8 acres
11.	Joseah Kibii Mutai	5.44 acres
12.	Anyesi C Chepkoimet	3.2 acres
13.	Gideon Kiplangat Ngeno	1.6 acres
14.	Christine Chepkemoi Soi	6.68 acres
15.	Joseph Kiprono Koech	2 acres, 0.7 acres and 1.5 acres
16.	Charles Kiprotich Ngeno	3.9 acres
17.	Paul Kiprono Kirui	2.2 acres
18.	Joan Kimutai Cheruiyot	2.4 acres
19.	Kipngeno Mutai	4.0 acres
20.	Matthew Kipkemoi Korir	3.5 acres
21.	Mutai Ismael	4.0 acres
22.	Michael Cheruiyot	2.0 acres
23.	Fredrich Cheruiyot Soi	7.1 acres and 2 acres
24.	Meshark K. Cheruiyot	2.41 acres



25.	Robert Cheruiyot	2.0 acres
26.	Matthew Cheruiyot Kipngeno	2.1 acres
27.	Johana Kipkurui Soi	0.2 acres, 3.9 acres and 3.6 acres
28.	Alice Chesang Sang	3.1 acres
29.	Philip Siele	1.7 acres
30.	Bii Joseph Kipngetch	0.1 acres
31.	Elizabeth Chepkorir Koros	0.5 acres
32.	Erick Yegon	1.85 acres
33.	Zipporah Soi	1.86 acres
34.	Joseph Soi Mungot	10.6 acres
35.	Agnes Chepkoech Langat	10 acres
36.	Paul Elkanah Cheruiyot	8.8 acres
37.	Ruth Cheruiyot soi	10 acres
38.	Juliana Chepkoskei Soi	0.8 acres
39.	Rono Alfred	1.05 acres
40.	Robert Tonui	2.70 acres
41.	Kibet Arap Soi	6.6 acres
42.	Richard Kipkoech Soi	4.75 acres
43.	Christopher Chepkwony	2.0 acres
44.	Morgan Kibet Korkoren	0.4 acres and 0.8 acres
45.	Joseph Kiprono Bore	0.5 acres
46.	Edna Chepkorir Soi	2.0 acres
47.	Priscila Chepkirui Cheruiyot	1.14 acres
48.	Mutai Chris	0.4 acres
Road Access	3.0 acres	



**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).

N/A for the Petitioner/Applicant

Otieno for the Objector/Respondent

