

REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

SUCCESSION CAUSE NO. 160 OF 1995

**IN THE MATTER OF THE ESTATE OF THE LATE ALWALA KIMETTO -
DECEASED**

**AND REGINA KABOT JERUTO (DECEASED)
PETITIONER**

=VERSUS=

**JACKSON KIPKEMEI TANUI
APPLICANT**

**STANSLAUS MUTAI INTERESTED
PARTY**

Coram Before: Hon. Justice R. Nyakundi

RULING

1. Before Court is a notice of motion under certificate of urgency dated 17th day of December 2025 seeking the following orders:
 - (a) Spent
 - (b) That the Applicant Stanlaus Mutai be enjoined as an Interested Party in these proceedings.
 - (c) That there be a stay of further proceedings pending the hearing and determination of this application.
 - (d) That this Honourable court do take cognizance of and give effect to the Court of Appeal directive issued in 2018 requiring that all succession causes touching on the land and revisited together.
 - (e) That costs of this application be in the cause.
2. The application is premised on the following grounds:
 - (a) The applicant is a purchaser for value of land affected by these proceedings.
 - (b) The applicant paid a substantial portion of the purchase price.
 - (c) The grant sought to be revoked constitutes the root of title to the land purchased by the applicant.

- (d) Revocation of the grant without hearing the Applicant would occasion grave injustice.
 - (e) The application was not a party to the succession proceedings yet stands to be directly prejudiced.
3. The application is supported by an affidavit sworn by Stanslaus Mutai who deponed as follows:
- (a) That in the year 2019, I entered into a land sale agreement with John Kipsum Kebenei for the purchase of five (5) acres out of Land Parcel No. Cheptiret/Cheplaskei block 4 (Seruiyot) 56 at an agreed consideration of Kenya Shillings Twelve Million Five Hundred Thousand (Kshs 12,500,000/=) per acre.
 - (b) That I paid a down payment of Kenya Shillings One Million Five Hundred Thousand (Kshs 1,500,000/=) and it was agreed that the balance would be paid upon taking possession after conclusion of ELC No. 74 of 2019.
 - (c) That the land originates from Succession Cause No. 160 of 1996 wherein Regina Kobot Jeruto succeeded the estate of Alwala Kimetto, whose property was land Parcel No. Cheptiret/Cheplaskei (Seruiyot) 34.
 - (d) That following confirmation of grant in Succession Cause No. 243 of 1997 the land was subdivided, giving rise to Parcel No. Cheptiret/Cheplaskei Block 4 (Saruiyot) 56.
 - (e) That following the lawful succession and subdivision, John Kipsum Kebenei obtained a title deed for Land parcel No. Cheptiret/Cheplaskei Block 4 (Saruiyot) 56, thereby acquiring absolute proprietorship from which my purchaser's interest arises.
 - (f) That disputes touching on the land culminated in Court of appeal decision delivered in 2018, directing that all succession causes relating to the land be revisited before ownership could be conclusively determined.
 - (g) That ELC No 74 of 2019 was subsequently withdrawn after serious questions arose regarding the Plaintiff's locus standi.

- (h) That prior to the withdrawal, Joh Kipsum Kebenei wrote to the Deputy Registrar, High Court at Eldoret, seeking verification of an alleged succession order relied upon by Jackson Kipkemei Tanui in succession cause No. 143 of 1997.
- (i) That the Deputy Registrar, High Court at Eldoret, responded in writing disowning the alleged succession order, confirming that succession Cause No. 143 of 1997 does not relate to the estate of Regina Kobot Jeruto but to a different estate altogether, rendering Jackson Kipkemei Tanui's reliance on it misleading and unlawful.
- (j) That I am aware that the present proceedings have been instituted by Jackson Kipkemei Tanui against John Kipsum Kebenei and William Kipchoge (deceased), administrators of the Estate of Regina Kobot Jeruto, seeking revocation of the grant issued to Regina Kobot Jeruto in succession Cause No. 160 of 1996.
- (k) That the grant sought to be revoked constitutes the root of title, and revocation without my participation will directly and adversely affect my proprietary interest.
- (l) That the hearing of this application is fixed for 19th December 2025 and unless I am enjoined before or on that date the matter may proceed without hearing me.
- (m) That I seek joinder only to protect my constitutional rights under Article 40 and 50 and to assist the Court reach a just determination.

Decision

4. In the Kenyan context joinder of parties to any proceedings is primarily provided for under Order 1 Rule 10(2) of the Civil Procedure Rules which grants the court wide discretion to add a party whose presence is necessary for the complete resolution of the suit or claim. The Superior Courts at their various forums across the Country have developed key principles which form the primary

criteria to exercise discretion for the joinder of a party to any pending suit, claim or petition for that matter as instructive herein:

- a) **Identifiable Stake:** An applicant must demonstrate a recognizable and direct legal interest or stake in the proceedings that is distinct from merely a general public interest.
- b) **Protection of Rights:** Joinder may be allowed to protect the rights of a party who would otherwise be adversely affected by the outcome.
- c) **Prevention of Proliferation:** The court may permit joinder to avoid multiple, parallel lawsuits over the same subject matter, which promotes judicial efficiency.
- d) **Stage of Proceedings:** Joinder applications should ideally be made before judgment is entered, as adding a party after a case has been determined is generally not permissible unless the judgment is set aside or reviewed.
- e) **No Prejudice:** The joinder should not result in an irreconcilable prejudice or injustice to the existing parties that cannot be compensated by costs. (see the notable cases in this regard; **Absolom Opini Makenya -v- James Obegi (2018) eKLR, John Harun Mwau vs Simone Hayson & 2 Others; Attorney General & 2 Others (IP) [2021] eKLR, Hamptons Hospital Limited v Chief Justice & President ... (2025) eKLR.**

5. I have considered the application as premised in the notice of motion and accompanied by the supporting affidavit of the applicant. Taking all factors into account, there is merit to grant in the interim period the following orders pending the rejoinder filings to be made by Learned Counsel M/S Isiaho for the Respondent: Thus;

- (a) *That the Applicant Stanlaus Mutai be enjoined as an Interested Party in these proceedings.*
- (b) *That there be a stay of further proceedings pending the hearing and determination of this application.*
- (c) **Hearing on 19th January 2026.**

**DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 18TH
DAY OF DECEMBER 2025**

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**R. NYAKUNDI
JUDGE**