

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. E025 OF 2023

IN THE MATTER OF THE ESTATE OF THE LATE JOHN KIRWA
alias KIPROTICH KIRWA alias JOHN KIPROTICH KIRWA
(DECEASED)

CHARLES

KIPKIRUI

CHELULE

.....PETITIONER/APPLICANT

- V E R S U S -

SIMEON K. NGETICH.....OBJECTOR/RESPONDENT

RULING

1. The subject matter of this ruling is the motion dated 15th September, 2025 whereof the Petitioner/Applicant seeks for the following Orders *inter alia*:-

- (i) THAT this application be certified as urgent and service hereof be dispensed with in the first instance;***
- (ii) THAT leave be granted to the Applicant to be heard on the application dated 15th September, 2025 filed herewith during the current High Court Vacation.***
- (iii) THAT costs of this application be borne by the Defendant***

2. The applicant filed an affidavit he swore in support of the motion. The Respondent did not deem fit to the application.
3. The applicant's main argument put forward in support of the application is that the Respondent has intermeddled with the property belonging to the estate by selling off part of the parcel of land known as **L.R. No. Njoro/Ngata/Block 128** to third parties without the consent or knowledge of the beneficiaries. In his affidavit, **Charles Kipkirui Chelule** the applicant herein averred that the Respondent sold a piece of **L.R. No. Njoro/Ngata/Block 5/128** measuring 1/8 of an acre to a buyer the Respondent failed to disclose. The Applicant attached some photographs to his affidavit to show that some buyers are likely to fence and develop the deceased's parcel of land.
4. I have carefully considered the grounds set out on the face of the motion dated 15th September, 2025. I have also taken into account the facts deposed in the supporting affidavit. The Applicant is seeking for orders of injunction to restrain the Respondent from intermeddling with the property of the estate of John Kirwa alias Kiprotich Kirwa alias John Kiprotich Kirwa (deceased).

5. It is the Applicant's claim that the Respondent sold part of the parcel of land known as **L.R. No. Njoro/Ngata/Block 5/128** to third parties whom he does not know. The Applicant is duty bound to tender tangible evidence to prove that the Respondent has intermeddled with estate by selling the estate land. It is not sufficient to attach photographs as proof of sale. The applicant should have attached a copy of a sale agreement or any sort reliable evidence to show occupation or development of the parcel of land.

6. The Applicant is expected to disclose even the names of the alleged purchasers. Sale of land is a serious affair which cannot be taken lightly. The affidavit evidence tendered by the Applicant did not disclose any interference or intermeddling by the Respondent.

7. In the end, I find no merit in the application dated 15th September, 2025. The same is dismissed. Each party to meet their own costs.

**Dated, signed and delivered at Kericho this 3rd day
of December, 2025.**

.....
J. K. SERGON
JUDGE

In the Presence of:-

C/Assistant - Rutoh

No Appearance