

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. 30 OF
2016

IN THE MATTER OF THE ESTATE OF DAVID
KIPLANGAT ALIAS DAVID KOSKEY (DECEASED)

**CHRISTINE
MOSONIK.....APPLICANT**

CHEPKIRUI

VERSUS

**GRACE CHEBET KOSKE.....1ST PETITIONER/
RESPONDENT**

**FREDRICK KIPKOECH LANGAT.....2ND
PETITIONER/RESPONDENT**

**VINCENT LANGAT.....3RD
PETITIONER/RESPONDENT**

**KENNETH CHERUIYOT LANGAT.....4TH
PETITIONER/RESPONDENT**

RULING

1. The application coming up for determination is a summons for revocation and/or annulment of grant dated 23rd September, 2024 seeking the following orders;

(i) That the Grant of letters of administration made to GRACE CHEBET KOSKE, FREDRICK KIPKOECH, VINCENT

LANGAT and KENNETH CHERUIYOT on the 22nd June, 2016, and confirmed on 31st July, 2023 be revoked on the following grounds: - a) That the persons to whom the grant was made have failed, after due notice and without reasonable cause to proceed diligently with the administration of the estate. b) That the Respondents have failed within the prescribed time 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 of the Law of Succession Act.

(ii) That a fresh Grant do issue in the joint names of the Petitioners and CHRISTINE CHEPKIRUI MOSONIK as ordered by this Honourable court on 19th July, 2018 and and the same be subsequently confirmed notwithstanding the fact that six months have not lapsed.

(iii) That the petitioner/respondents bear the costs of this application.

2. The application is supported by grounds on the face of it and the affidavit of ***Christine Chepkirui Mosonik*** in support of the summons for revocation/annulment.
3. She deposes that she is one of the co-administrators the estate of the deceased pursuant to the court's ruling dated 19th July, 2018 and further that the 1st - 4th Petitioners are her co-wife and step sons respectively and that despite being enjoined as Administrator, a fresh grant to confirm her status has never been issued as the co-administrators who are all from the first house are completely hostile to her and have never been willing to recognize her and her children.
4. She also deposes that by inadvertence on the part of her advocates on record, they failed to make a prayer seeking her enjoinder as co-administrator and so on 31st July, 2023, the court issued a Certificate of Confirmation of Grant that did not bear her name.
5. It is her disposition, that notwithstanding the confirmation of the Grant on 31st July, 2023, the Petitioners/Respondents have failed and or refused, despite due notice, to undertake

their legal obligations to distribute the estate and to provide full and accurate inventory of the completed administration of the estate and due to the Respondents' inaction, she continues to suffer irreparably as the Respondents have and continue to deprive them of their rightful inheritance and enjoyment of the beneficial entitlement of the estate of the deceased without just cause or reason.

6. It is her disposition that order to facilitate ease of administration of the estate, that a fresh grant do issue in the joint names of the Petitioners and hers and that the same be subsequently confirmed notwithstanding the fact that six months shall not have lapsed; in the terms set out as hereunder:

<i>Item</i>	<i>Assets</i>	<i>Mode of Distribution</i>
<i>1.</i>	<i>Kericho/Barsiele Block 6 Chemamul No. 74 measuring 3.1606 acres</i>	<i>i Grace Chebet Koske to hold 1.858374 acres in trust in equal shares for herself and her children. ii Christine</i>

		<i>Chepkirui Mosonik to hold 1.302126 acres in trust in equal shares for herself and her children.</i>
2.	<i>Kericho/Barsiele Block 6 Chemamul No. 8 measuring 6.64 acres</i>	<i>i. Grace Chebet Koske to hold 3.90432 acres in trust in equal shares for herself and her children.</i> <i>ii Christine Chepkirui Mosonik to hold 2.73568 acres in trust in equal shares for herself and her children.</i>
3.	<i>Kericho/Barsiele Block 4 Kapkwen No. 8 measuring 3 acres</i>	<i>i. Grace Chebet Koske to hold 1.764 acres in trust in equal shares for herself and her children.</i> <i>ii Christine Chepkirui Mosonik to hold 1.236 acres in trust in equal shares for herself and her children.</i>

<p>4</p>	<p>Kericho/Barsiele Block 5 Kapkwen No. 10 measuring 0.99 acres</p>	<p>Grace Chebet Koske to hold 0.58212 acres in trust in equal shares for herself and her children.</p> <p>ii Christine Chepkirui Mosonik to hold 0.40788 acres in trust in equal shares for herself and her children.</p>
<p>5</p>	<p>Funds held at Barclays Account No. 0098243941</p>	<p>To be used to settle legal fees and stamp duty and any surplus thereof to be shared equally by all the dependents of the deceased.</p>
<p>6</p>	<p>Shares held at KCB Bank Limited plus Dividends accruing therefrom</p>	<p>i. Grace Chebet Koske to hold 58.8% in trust in equal share for herself and her children</p> <p>ii. Christine Chepkirui Mosonik to hold 41.2% absolutely</p>
<p>7</p>	<p>Pensions</p>	<p>Grace Chebet</p>

	<p>Proceeds held at Teleposta Pension Scheme Personal File Old No. 231080, New No. 20050</p>	<p>Koske to hold 58.8% in trust in equal share for herself and her children</p> <p>ii. Christine Chepkirui Mosonik to hold 41.2% in trust in equal share for herself and her children</p>
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7. **The** petitioners/respondents filed a preliminary objection to the summons for revocation/annulment of grant seeking to have the said summons struck out on the following grounds;

(i) THAT this Honourable Court is functus officio, having delivered a final judgment/order on 31st July, 2023 thereby conclusively determining all matters in dispute and exhausting its jurisdiction in relation to the estate of the deceased.

(ii) THAT the issues raised in the Application for revocation of grant were, or ought to have been, raised during the initial hearing and determination of the succession cause, and the failure to raise them at

that stage renders the present application an abuse of the court process.

(iii) THAT the present Application lacks jurisdictional foundation and is fatally defective, as it seeks to invite the Court to exercise powers it no longer possesses, thereby rendering the entire application null and void ab initio.

(iv) THAT the Application is therefore incompetent, misconceived, and amounts to an abuse of the due process of the court, and ought to be dismissed or struck out in limine with costs.

8. The matter came up for inter partes hearing and this court directed the parties to file their written submissions

9. The applicant complied and filed her submissions, she contends that the preliminary objection is misconceived as this court retains the jurisdiction to hear and determine summons for revocation, whether a grant is confirmed or not, until the estate is fully administered, pursuant to section 76 of the Law of Succession Act.

10. The applicant reiterated that the respondents forfeited their right to continue as administrators of the estate of the deceased and therefore the grant confirmed on 31st July, 2023 ought to be revoked and a fresh grant issued in the names of the respondents and applicant in order to safeguard the estate and ensure fair and equitable distribution.
11. At the time of writing this ruling the respondent had not yet uploaded their submissions in support of the preliminary objection on the case tracking system.
12. I have considered the summons for revocation alongside the preliminary objection and find that the issue for determination at this point in time is whether the preliminary objection has merit. This court finds that the grounds raised in the preliminary objection are not premised on the supervening law on matters pertaining to estate planning, primarily because this court is empowered to entertain applications for revocation at any time whether or not a grant is confirmed. The relevant provision of the law is section 76 on the Law of Succession Act (CAP 160), which

states follows; ***“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...”*** It is therefore the finding of this court that the preliminary objection lacks merit, it is hereby dismissed.

13. In light of the foregoing, the summons for revocation and/or annulment of grant dated 23rd September, 2024 should be set down for hearing on its merits.

Delivered, signed and dated at Kericho this 18th day of December, 2025.

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**J.K. SERGON
JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Kipkorir Rop for Petitioner/Respondent

Kipkorir for the Objector

