



**Paksons Enterprises Limited & 3 others (2nd, 3rd, and 4th Plaintiffs
Suing as the legal Representative of the Estate of the Late Anna Chebet
Koech (Deceased)) v Kenya Commercial Bank & another (Civil Suit
E004 of 2022) [2025] KEHC 19133 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 19133 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CIVIL SUIT E004 OF 2022
JK SERGON, J
DECEMBER 19, 2025**

BETWEEN

**PAKSONS ENTERPRISES LIMITED 1ST PLAINTIFF
WESLEY ROTICH 2ND PLAINTIFF
DAVID KIPRONO ROTICH 3RD PLAINTIFF
ROBERT KIPNGETICH 4TH PLAINTIFF
2ND, 3RD, AND 4TH PAINTIFFS SUING AS THE LEGAL REPRESENTATIVE
OF THE ESTATE OF THE LATE ANNA CHEBET KOECH (DECEASED)**

AND

**KENYA COMMERCIAL BANK 1ST DEFENDANT
JOSEPH M GIKONY T/A GARAM INVESTMENTAUCTIONEERS 2ND
DEFENDANT**

RULING

1. The subject matter of this ruling is the motion dated 30th September, 2025 whereof the Plaintiff's/ Applicants sought for inter alia an order of injunction to restrain the Defendants from selling or otherwise disposing of title No. Kericho Municipality Block 2/80 ACK Business Centre and L.R No.631/1582 Minasa Centre as advertised on 29th September, 2025 or otherwise without complying with the law pertaining to disposal of a deceased person's property. The Plaintiffs filed the Affidavit sworn by Wesley Rotich in support of the application. The Defendants filed a Replying Affidavit to oppose the motion.



2. The Plaintiffs made submissions to the effect that upon the default on the part of the 1st Plaintiff to repay the credit facility, the 1st Defendant herein in moving to exercise its statutory power of sale over the properties offered as collateral, never complied with the legal provisions as pertaining to the disposal of a deceased person's assets. The Plaintiffs further argued that the right of redemption of deceased person's properties does not extinguish upon their demise and a secured creditor still has a legal obligation to comply with all the legal requirements such as serving upon the deceased's legal representatives all the requisite notices as mandated by law and which legal obligation the Defendants herein have abdicated.
3. The 2nd and 4th Plaintiffs are said to have obtained a grant of representation ad litem in respect to the Estate of the deceased on 5th December, 2024 and that the Defendants have never served any statutory notices required preceding the intended sale of a charged property. The Plaintiffs urged this Court to grant the orders to preserve the charged from being sold.
4. The Defendants opposed the application argued that they have demonstrated that the deceased was served with the statutory notices and that the deceased denied after the statutory notices were served. The Defendants further argued that it will not be fair to ask the 1st Respondent to serve afresh. The Defendants further argued that the Applicants have shown that they have a Prima Facie case not have they demonstrated that they would suffer irreparable loss if the order for injunction is denied.
5. Having considered the material placed before this Court and oral rival submissions made by Learned Counsels, the main issue which has been to this Court to determine is whether or not to grant the order of injunction against the Defendants. The Plaintiffs have urged this Court to grant the order because if the order is denied, they would suffer irreparable loss in that they would have been denied a right to exercise the equity of redemption.
6. They averred that they are the legal representatives of the Estate of Anna Chebet Koech, deceased and that they have not been served with the Statutory Notice of Sale by the Defendants. The Defendants do not deny the fact that the Plaintiffs have not been served with the Statutory Notice of Sale. The Defendants averred that since they had served the deceased, it is not necessary to serve the Notice afresh. The Defendants have not also denied the allegation that they intend to carry out the Sale of the charged properties as advertised.
7. This Court is of the opinion that it is necessary for the legal representatives of the Estate of the deceased to be served with the Notice so that they can take the necessary steps to exercise the equity of redemption.
8. If the order of injunction is not granted, the Plaintiffs will lose the rights to exercise the equity of redemption. I shudder to say that failure to exercise the equity of redemption is an irreparable loss.
9. In the end, I am satisfied that the Plaintiffs are entitled to the orders sought. Consequently, the motion dated 30th September, 2025 is found to be meritorious. An order for temporary injunction is issued to restrain the Defendants and or any other person acting at their behest from selling or otherwise disposing of all properties known as title No. Kericho Municipality Block 2/80 ACK Business Centre and L.R. No.631/1582 Minasa Centre as advertised on 29th September, 2025 or otherwise without complying with the law pertaining to disposal of a deceased person's property pending the hearing of this suit.
10. Costs of the application to abide the outcome of the suit

DELIVERED, SIGNED AND DATED AT KERICHO THIS 19TH DAY OF DECEMBER, 2025.



J.K. SERGON

JUDGE

In the presence of:-

C/Assistant – Rutoh

Mutua holding brief for Mbaya for 1st Defendant

Bulowa holding brief for Khaemba for Plaintiffs

