

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT ELDORET**  
**SUCCESSION CAUSE NO. E265 OF 1996**  
**IN THE MATTER OF THE ESTATE OF CHEPKONGA MAINA -**  
**(DECEASED)**

**SAMUEL KIPLAGAT MAINA PETER KIPKORIR MAINA ROSELINE**  
**CHEPKURUI** **MAINA**  
.....**PETITIONERS/ADMINISTRATORS**

**VERSUS**

**JULIUS KIPRONO MAINA** .....**OBJECTOR**

**Coram: Before Justice R. Nyakundi**  
**M/s C.J Ndombi & Co. Advocates**  
**Ngala & Co. Advocates**  
**M/s Chemitei & Co. Advocates**

**RULING**

1. This Court is faced by dint of a Notice of Motion dated 8<sup>th</sup> December 2025. The Applicant sought for the following orders;
  - a. *Spent*
  - b. This Honorable Court be pleased to issue an Interim Order for Stay of Proceedings in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA pending the hearing and determination of this application.
  - c. There be an Order for Stay of Proceedings in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA pending the hearing and determination of the Objector's case herein.
  - d. This Honorable Court be pleased to issue a restriction over title to the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 pending the hearing and determination of the Objector's case herein.
  - e. This being an old matter, the Objector's case be fast-tracked and heard on priority basis.
  - f. This Honorable Court be pleased to grant other such order(s) as it may deem fit.
  - g. Costs of this application be provided for.
2. The Application is made on the following grounds;

- i. The Objector lodged his Summons for Revocation in this case on 19th February 2013 after being issued with an eviction notice to vacate the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41, which he still occupies to date.
- ii. The basis behind lodging the above objection was due to the fact that the Objector and his late mother, KOBILLO CHEPKONGA had been excluded as beneficiaries out of this Estate.
- iii. These Summons for Revocation of Grant have been pending hearing and determination owing to the fact that the initial administrators, WILLIE K. MAINA & PAUL C. LIMO had both passed on and were yet to be substituted.
- iv. The above circumstances were beyond the Objector's control, and he thus had to await the appointment of new administrators prior to pursuing his Objection.
- v. The land parcel in dispute in this Objection, SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 was registered in the name of FAITH CHEMUTAI MAINA, a daughter to the deceased herein, in 2013 despite there being an interim order of 26th February 2013.
- vi. The Objector has been sued by the same FAITH CHEMUTAI MAINA, in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA seeking for his eviction out of the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41, whose rightful inheritance has been challenged in the Objection herein.
- vii. This case has is pending determination and it is likely to proceed to conclusion to the detriment of the Objector's case herein.
- viii. The Objector has been in occupation of the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 for over two decades
- ix. It is thus fair and needful that an Order for Stay of Proceedings be issued in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA in order to fast track the Objector's case and the issue of inheriting the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41.
- x. This application has been filed timely and without undue delay.

- xii. This Honorable Court has powers to grant the orders sought herein in the interest of justice and fairness.
3. The Application is supported by an Affidavit sworn and deponed as follows;
- i. *THAT I am a male adult of sound mind and the Objector herein hence competent to swear this affidavit.*
  - ii. *THAT I am a son to the late CHEPKONGA MAINA, the deceased herein who died on 14th July 1989 and survived by his three (3) wives:*
    - a. *Kobilo Chepkonga - 1st Wife*
    - b. *Mary Chemeli Maina - 2nd Wife*
    - c. *Christine Jepkosgei Maina - 3rd Wife*
  - iii. *THAT the late KOBILLO CHEPKONGA was my mother and she died on 13th February 1999. (Annexed and Marked JKM1 is a copy of the Death Certificate)*
  - iv. *THAT prior to my mother's death, I resided with her on the land parcel L.R. NO. 8337 & 9471/41, now registered as SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41, which initially belonged to CHEPKONGA MAINA, the deceased herein.*
  - v. *THAT my family and I have been in occupation of this land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 for over two decades now.*
  - vi. *THAT at the time of filing the Petition and Confirmation of Grant, the 1st House was excluded from these proceedings, thus necessitating my lodging of the Summons for Revocation of Grant dated 19th February 2013. (Annexed and Marked JKM2 is a copy of the Summons for Revocation of Grant)*
  - vii. *THAT upon lodging of this summons in 2013, the Honorable Court issued an Interim Order of preserving status quo of the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 pending the determination of my case. (Annexed and Marked JKM3 is a copy of the Orders of 26th February 2013)*

- viii. *THAT after these Interim Orders were issues, the Objector's case stalled for a while due to the fact that the initial administrators, WILLIE K. MAINA & PAUL C. LIMO had both died and were yet to be substituted.*
- ix. *THAT it is last year that a rectified Certificate of Grant was issued in this case after appointment of the current administrators, whose names have been captured in this application.*
- x. *THAT prior to issuance of this rectified grant, the original court file in this matter had been misplaced and my advocate sought the court's intervention in construction of a skeleton file, which Order was granted on 1st April 2019.*
- xi. *THAT currently, the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41 has been registered in the name of FAITH CHEMUTAI MAINA, a daughter to the 3rd Wife herein, despite the Interim Orders of 26th February 2013 being in place. (Annexed and Marked JKM4 is a copy of the title deed to this land parcel)*
- xii. *THAT further, the same FAITH CHEMUTAI MAINA lodged a case before the Magistrates Court in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA seeking for my eviction out of the land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41. (Annexed and Marked JKM5 is a copy of the Plaintiff)*
- xiii. *THAT the aforementioned case ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA is pending hearing and determination*
- xiv. *THAT my advocate raised with the trial court the issue of the Interim Orders of 26th February 2013 in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA which was dismissed, and the case is set for full trial.*
- xv. *THAT should the case ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA proceed to determination, my family and I are likely to be evicted.*

- xvi. *THAT additionally, the case ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA was referred to court annexed mediation, which has yielded no fruits. (Annexed and Marked JKM6 is a copy of the Mediation Notice)*
- xvii. *THAT owing to the above events and the fact that the Interim Orders of 26th February 2013 are seemingly out of time and unexpended, it is imperative that this Honorable Court issue a fresh Order of Stay of Proceedings in the aforementioned case together with fast-tracking this Succession Cause.*
- xviii. *THAT in absence of an Order of Stay of Proceedings, I stand to suffer irreparable loss.*
- xix. *THAT it is in the interest of justice that this application be allowed. No prejudice shall be occasioned on the administrators whatsoever.*
- xx. *THAT this Honorable Court has power to grant the Orders sought.*
- xxi. *THAT I swear this Affidavit in support of facts deponed to hereinabove and affirm them to be true to the best of my knowledge, information and belief.*
4. Given this background the court is being asked to issue stay of proceedings in the Eldoret Chief Magistrates Court E&L CASE NO. 143 of 2018 to pave way for hearing and determination of the Application for Revocation of Grant. The applicable provision is founded under **Order 42 Rule 6 (2) of the Civil Procedure Rules**. The Court in **Machira t/a Machira & Co. Advocates vs East African Standard (number 2) [2002] KLR 63** the Court observed that;
- “In the exercise of the court's discretion in a judicial fashion, the court cannot legitimately look at a matter on one assumption alone, favoring one party and ignoring the other party. In applications for stay of proceedings there is no rule of law or practice or sound principle requiring a court to start and proceed on initial assumption that the appeal or intended appeal shall succeed and so prima facie the applicant is the preferred party. There would be no sound principle to back up such a presumption and the matter must remain in the discretion of material circumstances of the case and excluding*

*everything that is extraneous, and never shutting one's eyes to the interests of any party."*

5. This Application is being evaluated as an undefended suit. From the initial direction it is presumed that the external CTS dash board provides a window for the other party to have responded to the Application. However as of today, there is no evidence of any filing of Grounds of Opposition or Replying Affidavit.
6. Therefore, from this perspective of the Applicant, the evolving test of stay of proceedings pending before Eldoret Chief Magistrates Court E&L CASE NO. 143 of 2018 has been met by the Applicant for the continuation of the proceedings from that forum is likely to prejudice the Applicant. As a consequence of which the following orders shall be issued that;
  - i. There be an Order for Stay of Proceedings in ELDORET CHIEF MAGISTRATES E&L CASE NO. 143 OF 2018: FAITH CHEMUTAI MAINA vs. JULIUS KIPRONO MAINA pending the hearing and determination of the Objector's case herein.
  - ii. The Honorable Court do hereby issue an order of restriction of title to land parcel SOY/KIPSOMBA BLOCK 1 (TARAKWA) 41.
  - iii. This order shall be served upon the Chief Magistrate Court to temporarily down tools of the aforesaid case docket pending the hearing and the outcome of this Succession Cause.
  - iv. This matter shall be prioritized by this court so as not occasion prejudice or injustice in the already pending Suit in the Magistrate Court.
  - v. The pre-trial conference shall be held 20/2/2026

**GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 20<sup>TH</sup> DAY OF JANUARY, 2026**

.....  
**R. NYAKUNDI**  
**JUDGE**