



REPUBLIC OF KENYA



In re Estate of Michael Pkerker Tongojin (Deceased) (Succession Cause 203 of 2007) [2026] KEHC 840 (KLR) (3 February 2026) (Judgment)

Neutral citation: [2026] KEHC 840 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
SUCCESSION CAUSE 203 OF 2007**

RK LIMO, J

FEBRUARY 3, 2026

IN THE MATTER OF THE ESTATE OF M P T -DECEASED

BETWEEN

PENINAH MUGURE MWANGI PETITIONER

AND

ELIZABETH NALIKA OBJECTOR

JUDGMENT

1. This cause relates to the estate of the late M P T who died on 16/10/2003. The deceased died intestate leaving behind the following listed beneficiaries;
 - i. M M
 - ii. M C M T
 - iii. T P
 - iv. E P
 - v. M C
 - vi. C R
 - vii. B C
2. The estate comprises the following;
 - i. Death gratuity
 - ii. Twiga settlement scheme Plot No.306
3. The record shows that a grant was issued on 18/11/2008 to P M M and M C M T.



4. E N on 10/5/2018 applied for revocation of the said grant vide summons for revocation of grant dated 11/5/2018. The main basis for the application to revoke the grant was that E N was also married to the deceased and were blessed with 6 children with the deceased.
5. Justice H.K. Chemitei heard the matter and vide his Ruling dated 15/5/2019 allowed the application and revoked the grant. The court then issued a fresh grant to both P M M and E N. The other widow M C M T had by then passed on. The court directed that the children of the said Mary Chepotula be catered for as well.
6. The 1st administrator P M M vide summons for confirmation of grant dated 28/9/2020 applied for confirmation of grant listing the following as dependants;
 - i. M M – widow
 - ii. E N – widow
 - iii. M C M T – deceased widow
 - iv. T P
 - v. E P
 - vi. M C
 - vii. C R
 - viii. B C
 - ix. P T
 - x. A.K.W
 - xi. D .K. T
 - xii. David Kemboi T
 - xiii. C .K. N T
 - xiv. S P T
 - xv. M P T
7. The 1st administratrix proposed the following mode of distribution;
 - A. Twiga Settlement Scheme Plot No.306 measuring 5 acres
 - i. M M – 2.5acres
 - ii. E N – 2.5acres
 - B. Plots in Makutano
 - i. T P To share equally among
 - ii. E P deceased widow
8. The record shows that on 3/6/2021 the court found that the only property left comprising the estate was Twiga Settlement Scheme Plot No.306 measuring 5 acres. The court directed that the same be shared equally between E N and P M M



9. E N on 21/1/2022 filed an application dated 28/12/2021 seeking to have the certificate of confirmation revoked claiming that the same was obtained by fraud and trickery.
10. On 10/7/2023 Justice A.C Mrima directed the objector/applicant to file her proposed mode and directed the objection to be heard via viva voce evidence.
11. In her oral evidence in court E N told the court that she was settled in Plot 306 at Twiga Settlement Scheme. That she has 7 children as one died. That the 3rd wife (Mary) passed on and was settled in Litein in Makutano. She further stated that the death gratuity was about Kshs. 3 Million but she was not given anything. That the 2nd wife Peninah used the money to buy some parcel in Chepareria and Makutano. That Peninah is now settled in Maili Saba. According to her, she should be left to take Twiga Farm with her children. She denied suggestions made to her that she had remarried after the demise of the deceased. She further conceded that she had sold 1 ½ acres to help her for upkeep and to raise her children.
12. Abednego Lokodir Liamale (PW2), a Chief Kishaunet Location West Pokot testified that he knew the deceased in this cause well as he used to work with him as Administration police in different stations. He stated that the deceased had 3 wives namely Elizabeth, Peninah and Mary. That the 1st wife (Elizabeth) had one child belonging to the deceased but the others according to him do not belong to the deceased because they were born after the demise of the deceased. That Peninah had only one child who unfortunately died. That Mary had 5 children one of whom is deceased.
13. He further stated that he had written a letter at the request of Elizabeth but later realized she had misled him because he realized that Elizabeth had only one child with the deceased named Peter with the other children being born after the demise of deceased. He stated that he wrote a subsequent letter dated 29/9/23 to correct the incorrect information in the earlier letter he wrote dated 14/7/2022.
14. According to the Chief the deceased only parcel is at Twiga Farm and that the parcel should be divided equally between Elizabeth and Peninah because Peninah takes care of Mary's children.
15. He further clarified that the deceased was buried in an unregistered farm in Letyei. That Mary was also buried there but the parcel ceased to exist because it was not registered.
16. M M (DW1) the petitioner herein testified that the objector was her co-wife. That the deceased was married to 3 wives inclusive of herself and the objector (Naliaka). She stated that the other wife was called Mary Chepotula and she is now deceased and had left behind 5 children.
17. According to her the objector had only one child named Peter with the deceased. She blamed the objector for delaying the finalization of this matter stating that Justice Kimaru had determined that they share the estate equally with the objector. That the surveyor went and subdivided the land pursuant to the decision of the court, adding that after subdivision they proceeded to the lands office with the objector and surrendered formal documents to facilitate transmission. She tendered the documents as DExhibit 1 (a) (b) (c) and (d).
18. She faulted the objector for going back to the parcel of land which had been subdivided and removed the beacons. She stated that the objector has already disposed 1 acre and remains with only one acre. She asked the court to give her, her share and bring this old matter to an end stating that this was the 4th time the matter was being heard.
19. M C (DW2) testified and supported the proposal made by DW1. She prays that half share be given to DW1 who will in turn hold it for them in trust adding that her brother C R sold a parcel in Makutano and thus had nowhere to settle.



20. This court has considered the objection raised vide an application for revocation of grant dated 28/12/2021 and the proposal made thereunder. I have also considered the petitioner's case.
21. It is apparent from the evidence tendered that this matter has taken long because of unnecessary wrangles and issues brought up by the objector.
22. The objector initially brought a similar application dated 10/5/2018 where she raised legitimate issues of being left out of the administration of the estate of the deceased. As observed above Justice Chemitei allowed her application and she was made a co-adminstratrix together with the petitioner as the 3rd wife Mary Chepotula had passed on by then.
23. In her present application she claims she was misled into signing a consent and or documents leading to the confirmation of grant by Justice Kimaru. That the certificate of confirmation was obtained through fraud. But she has not placed any evidence before court to prove that either she was misled on account of her alleged illiteracy or that the petitioner/respondent fraudulently obtained confirmation of grant.
24. This court finds that from the evidence tendered by Abednego Lokodir Liamale (PW2) a Chief from Kishaunet Location West Pokot, it is quite clear that the confirmation of grant made by Hon Kimaru J (as he then was) was not made by mistake or inadvertently but the judge carefully considered the evidence laid before him. The estate of the deceased only comprises Twiga Settlement Scheme Plot 306 and it measures 5 acres.
25. The allegations made by the objector that the deceased owned other assets or that the petitioner had got other assets comprising the estate are not supported by concrete evidence.
26. She has not also countered the evidence tendered to the effect that the only child she got with the deceased is only one named Peter. She has also not contested and in fact conceded that she has sold part of her share.
27. This court finds that grounds given by the objector to justify being given the entire estate to the exclusion of other beneficiaries is not supported by any evidence or the law.

The long and short of this is that this court finds no basis at all to revoke the grant confirmed by Justice Kimaru on 3/6/2021. The objector will get 2.5 acres from Twiga Settlement Scheme Plot No.306 and will hold it for her own benefit and that of her child named Peter. The petitioner will hold 2.5 acres for her own benefit and her children (read the children of Mary Chepotula Michael).

I will not make any order as to costs but the objector will pay surveyor's fees to go and replace the beacons she removed or destroyed. I will direct the Area Chief in the company of security from the local police to go and provide security to the surveyor as he replaces the beacons removed.

**DELIVERED, DATED AND SIGNED AT KITALE THIS3RD ... DAY OF
.....FEBRUARY....., 2026.**

HON JUSTICE R.K. LIMO

KITALE HIGH COURT

Judgment delivered in open court

In the presence of

Ombaso holding brief for Chebii for petitioner

Penina Mugure – present

No appearance for the Objectors



Duke/Chemosop- Court assistants

