



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Kipkosgei Arap Maina alias Kipkosgei Keter (Deceased) (Succession Cause 243 of 1999) [2026] KEHC 1638 (KLR) (17 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1638 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 243 OF 1999  
RN NYAKUNDI, J  
FEBRUARY 17, 2026**

**IN THE MATTER OF THE ESTATE OF THE LATE KIPKOSGEI  
ARAP MAINA ALIAS KIPKOSGEI KETER (DECEASED)**

**BETWEEN**

**JELAGAT TAPRANDICH ..... 1<sup>ST</sup> PETITIONER  
SABINA JEBORE INGOTE ..... 2<sup>ND</sup> PETITIONER  
DAVID MOSONIK ..... 3<sup>RD</sup> PETITIONER  
TABARNO KOSKEI ..... 4<sup>TH</sup> PETITIONER**

**AND**

**CHERUIYOT KOSKEI ..... OBJECTOR**

**RULING**

1. The 4<sup>th</sup> Petitioner herein had filed Summons dated 24<sup>th</sup> December 2021 seeking the following orders: -
  - a. Spent
  - b. That the orders made by this Honourable Court on the 9<sup>th</sup> August 2021 which amended the Certificate of Confirmation of Grant made on 4<sup>th</sup> day of July 2005 be set aside and that the application for Summons for rectification of Grant dated 28<sup>th</sup> July 2021 be listed for hearing on merit.
  - c. That pending grant of prayer No.2 above there be suspension/or stay of implementation of the orders of this Honourable Court made on 9<sup>th</sup> August 2021 pending the hearing and determination of this Summons Application.
  - d. The costs be in cause.



2. The Court vide its Ruling dated 20<sup>th</sup> day of June 2025 stated as follows: -
  7. Similarly, the Applicant has raised concern on her right to fair hearing guaranteed under Article 50 of *the Constitution*. He has pointed out that she was never served with the Summons dated 28<sup>th</sup> July 2021, but only discovered the proceedings when her new counsel examined the court file on 21<sup>st</sup> December 2021. This failure of service denied her the constitutional right to be heard before a decision affecting her property rights was made.
  8. The circumstances surrounding the alleged Memorandum of understanding further compound these concerns. An elderly litigant's assertion that she may have signed documents without understanding their contents, believing them to be routine papers, raises serious questions about informed consent and potential exploitation of vulnerable parties in succession proceedings.
  9. In the interest of justice and to ensure that all parties have their day in Court, I find that allowing the Summons dated 28<sup>th</sup> July 2021 to be heard afresh will cause no prejudice to any party. Rather, it will afford all interested parties the opportunity to be properly heard on the merits of the application, thereby upholding the constitutional guarantee of fair hearing. The original grant of 4<sup>th</sup> July 2005 has stood for over twenty years and a brief delay to ensure procedural fairness will not cause irreparable harm.
  10. For the foregoing reasons, I find merit in this application. The orders made on 9<sup>th</sup> August 2021 are hereby set aside. The Summons for rectification dated 28<sup>th</sup> July 2021 shall therefore be listed for hearing on merit with upon proper service on all the heirs on 7/7/2025 pending such hearing, there shall be a stay of implementation of the orders made on 9<sup>th</sup> August 2021.
  11. Costs shall be in the cause.

### **Determination**

3. This matter is coming up following the Ruling delivered on 20<sup>th</sup> June 2025 wherein this Court set aside the orders made on 9<sup>th</sup> August 2021 and directed that the Summons for Rectification of Grant dated 28<sup>th</sup> July 2021 be listed for hearing on merit upon proper service on all heirs. I have perused the Court record. It is apparent that despite the clear directions issued on 20<sup>th</sup> June 2025, the Summons dated 28<sup>th</sup> July 2021 have not been heard. There is no indication on record that the application was fixed for substantive hearing, nor that compliance with service upon all heirs was confirmed before the Court.
4. This Court is enjoined under Article 50(1) of *the Constitution* to ensure that every person is accorded a fair and public hearing before a decision affecting their rights is made. Equally, Article 159(2) (b) obligates this Court to ensure that justice is not delayed. The failure to progress the Summons for hearing undermines both the right to be heard and the constitutional imperative of expeditious disposal of matters. The setting aside of the orders of 9<sup>th</sup> August 2021 was intended to restore procedural fairness and afford all parties an opportunity to ventilate their respective positions on merit. That objective remains unfulfilled until the Summons dated 28<sup>th</sup> July 2021 is substantively heard and determined.
5. In the circumstances, and in order to give effect to the earlier ruling and advance the matter toward determination, I hereby direct as follows: -
  - a. The Summons for Rectification of Grant dated 28<sup>th</sup> July 2021 shall be fixed for hearing on priority basis.



- b. A status conference shall be held on 24<sup>th</sup> February 2026 to confirm compliance with service and to issue further directions toward hearing.
- c. The interim stay of implementation of the orders made on 9<sup>th</sup> August 2021 shall remain in force pending further directions of this Court.

6. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT ELDORET VIA CTS THIS 17<sup>TH</sup> DAY OF FEBRUARY 2026**

.....

**R. NYAKUNDI**

**JUDGE**

