



**In re Estate of the Late Chelanga Chepkwony (Deceased) (Succession Cause 48 of 2009) [2026] KEHC 1098 (KLR) (5 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1098 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 48 OF 2009  
RN NYAKUNDI, J  
FEBRUARY 5, 2026**

**IN THE MATTER OF THE ESTATE OF THE LATE CHELANGA CHEPKWONY (DECEASED)**

**BETWEEN**

**LOMERINYANG LINGANOI ..... APPLICANT**

**AND**

**JOEL KIMENGICH CHEBET ..... RESPONDENT**

**RULING**

1. By way of Summons dated 4<sup>th</sup> November 2025, the Applicant seeks the following orders;
  1. The court be pleased to substitute Jacob Pkorir Lomerinyang as the petitioner and the administrator of the estate of the deceased in place of Lomerinyang Linganoi who passed away on 28/07/2025 for purposes of concluding the administration of the estate.
  2. Costs be the same.
2. The application is expressed to be brought under rules 26, 27, 49, 63 and 73 of the Probate and Administration Rules and Oder 24 Rule 3 of the Civil procedure Rules. The application is premised on the grounds on the face of it and the averments of Jacob Pkorir Lomerinyang.
3. In his affidavit, he deponed that he is a son to the deceased Lomerinyang Linganoi who was the administrator of the estate and died on 28<sup>th</sup> July 2025. He annexed a copy of the certificate of death. At the time there were proceedings relating to an application filed by the petitioner and responses by the objectors and interested parties with regard to the distribution of the estate after the grant was confirmed. He urged that is the eldest son, the family agreed that he be appointed the administrator of the estate. He prayed that the application be allowed.
4. There was no opposition to the application.



5. The principles governing substitution of a deceased administrator are not expressly set out in the law. What is contemplated under Section 81 of the Act is that, in the event of the death of one or more joint administrators, where there are several administrators, the surviving administrator or administrators have the mandate to continue with their duties to completion without the need to replace the deceased ones. Section 81 provides:

“Upon the death of one or more of several executors or administrators to whom a grant of representation has been made, all the powers and duties of the executor or administrators shall become vested in the survivors or survivor of them...”

6. This was also discussed by Hon. Musyoka J who held as follows in *Re Estate of George Ragui Karanja (Deceased)* [2016] eKLR :

“The *Law of Succession Act* does not expressly provide for substitution of personal representatives who die in office, particularly in cases where the estate is left without one. The closest provision is section 81 of the Act, which provides for vesting of the powers and duties of personal representatives in the survivor or survivors of a dead personal representative... It would appear to me that once all the holders of a grant die, section 81 of the Act would be of no application. Indeed, the said grant becomes useless and inoperative, and liable to revocation under section 76(e) of the *Law of Succession Act*, to pave way for appointment of new administrators. The appointment of fresh administrators to take the place of the previous ones following their death is subject to the provisions of sections 51 through to section 66 of the Act.”

7. The law is very clear under Section 76(e) as read with Rule 44 of the Probate and Administration Rules upon the demise of an administrator or joint administrators duly appointed by the court under Section 66 of the same Act. The grant of letters of administration confirmed or not becomes inoperative null and void by effluxion of the law. The basis of it is well articulated by the Court of Appeal in *Florence Okutu Nandwa & Another v John Atemba Kojwa Kisumu Civil Appeal No 306 of 1998* made it clear that: “A grant of representation is made in personam. It is specific to the person appointed. It is not transferable to another person. It cannot therefore be transferred from one person to another. The issue of substitution of an administrator with another person should not arise. Where the holder of a grant dies, the grant made to him becomes useless and inoperative, and the grant exists for the purpose only of being revoked. Such grant is revocable under section 76 of the *Law of Succession Act*. Upon its revocation, a fresh application for grant should be made in the usual way, following procedures laid down in the *Law of Succession Act* and the Probate and Administration (Rules)...” Similarly the court in *Re-Estate of Mwangi Mugwe Alias Elieza Ngwere (Deceased)* (2003) eKLR the court held as follows: “The operative word is substitution.” The law of Succession has no provision talking about substitution of a deceased single administrator. In the circumstances therefore it is my considered view that the proper provisions of the law to apply is Section 76 (e) of the *Law of Succession Act* and Rule 44 of the Probate and Administration Rules whereby the Applicant would apply for revocation or annulment of a grant on the ground “that the grant has become useless and inoperative through subsequent circumstances.” The Applicant would proceed to put a prayer in the same application that a new grant be made to him and could as well add a further prayer if need be for confirmation of the new grant. The application should of course, be supported by consent from adult beneficiaries in the estate of the first deceased person, the second deceased person being the deceased administrator.” [own emphasis]



8. This grant in question was issued on 2.6.2022 and for all those years the estate remained untransmuted and now the sole administrator has since passed on the aforesaid grant therefore is useless and of no legal consequences. The court under Section 1(A) 1(B), 3 3(A) of the Civil Procedure Act as read with Section 76 (E ) of the law of Succession Act and Rule 73(1) of the Probate and administration Rules revokes the appointment of the deceased administrator and orders that the process of appointment as proposed starts denovo. Proposed Applicant shall be required to fill forms P&A 12, P&A 80, P&A 5, P&A 4, P&A 57, P&A 11 for purposes of enabling the Deputy Registrar to forward the same to the Principal Registry for purpose of gazetteement as per the law established. The Status Conference to monitor compliance on the 31<sup>st</sup> day of March 2026.

**DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 5<sup>TH</sup> DAY OF FEBRUARY 2026**

.....

**R. NYAKUNDI**

**JUDGE**

