



REPUBLIC OF KENYA



**In re Estate of the Late Boit (Deceased) (Succession Cause
E026 of 2022) [2026] KEHC 2661 (KLR) (2 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 2661 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE E026 OF 2022**

RN NYAKUNDI, J

MARCH 2, 2026

**IN THE MATTER OF THE ESTATE OF THE LATE
RICHARD KIPCHUMBA BOIT (DECEASED)**

BETWEEN

PAMELA BOIT PETITIONER

AND

FAHRENHEIT ENERGY LIMITED OBJECTOR

RULING

1. Before court for determination are summons for revocation dated 16th April, 2025 in which the Objector seeks orders as follows:
 - a. Spent.
 - b. Spent.
 - c. Spent.
 - d. The Grant of letters of administration intestate issued to Pamela Boit on 10th June, 2022 be revoked and the Certificate of Grant subsequently issued to Pamela Boit on the 14th June, 2023 and 16th December, 2024 respectively be annulled.
 - e. Costs be of the summons be awarded to the objector/applicant.
2. The reliefs sought are supported by an affidavit sworn by Jennifer Wanja Muriuki, a director of the applicant company and on grounds enumerated as hereunder:
 - a. The objector/Applicant is the registered owner and proprietor of all those parcels of land known as Title No. IR. 145476 measuring approximately 2.032 Ha, Title No. IR. 145477 measuring approximately 2.033 Ha, Title No. IR. 145478 measuring approximately 2.031 Ha,



Title No. IR. 145479 measuring approximately 2.031 Ha, Title No. IR. 145480 measuring approximately 2.073 Ha, Title No. IR. 145481 measuring approximately 2.057 Ha, Title No. IR. 145482 measuring approximately 2.003 Ha, Title No. IR. 145483 measuring approximately 2.003 Ha, Title No. IR. 145484 measuring approximately 2.004 Ha, Title No. IR. 145485 measuring approximately 2.002 Ha, Title No. IR. 145486 measuring approximately 2.036 Ha, Title No. IR. 145487 measuring approximately 2.036 Ha, Title No. IR. 145488 measuring approximately 4.079 Ha, Title No. IR. 145489 measuring approximately 4.079 Ha, Title No. IR. 145490 measuring approximately 4.079 Ha, Title No. IR. 145491 measuring approximately 4.126 Ha, Title No. IR. 145492 measuring approximately 95.62 Ha having obtained titles thereto on 19th April 2013.

- b. The objector/Applicant at all material times since 2013 has been in exclusive occupation, use and possession of the said parcels of land.
- c. The grant herein was issued on 10th June 2022 and confirmed on 14th June 2023 distributing Choronok farm (Sergoit) 9128 yet the said property ceased to exist as at 28th June 1996 hence the same could not be distributed herein.
- d. The Petitioner now seeks to implement the grant and the Certificate of confirmation of grant herein on the objector's parcels of land known as Title No. IR. 145476 measuring approximately 2.032 Ha, Title No. IR. 145477 measuring approximately 2.033 Ha, Title No. IR. 145478 measuring approximately 2.031 Ha, Title No. IR. 145479 measuring approximately 2.031 Ha, Title No. IR. 145480 measuring approximately 2.073 Ha, Title No. IR. 145481 measuring approximately 2.057 Ha, Title No. IR. 145482 measuring approximately 2.003 Ha, Title No. IR. 145483 measuring approximately 2.003 Ha, Title No. IR. 145484 measuring approximately 2.004 Ha, Title No. IR. 145485 measuring approximately 2.002 Ha, Title No. IR. 145486 measuring approximately 2.036 Ha, Title No. IR. 145487 measuring approximately 2.036 Ha, Title No. IR. 145488 measuring approximately 4.079 Ha, Title No. IR. 145489 measuring approximately 4.079 Ha, Title No. IR. 145490 measuring approximately 4.079 Ha, Title No. IR. 145491 measuring approximately 4.126 Ha, Title No. IR. 145492 measuring approximately 95.62 Ha yet the same did not and do not form part of the estate of Richard Kipchumba Boit.
- e. Pursuant to the circumstances stated hereinabove, the grant and the confirmation of grant were obtained fraudulently by the making of a false statement and/or by concealment from the court of something material to the case, to wit:
 - i. The petitioner failed to disclose to the court that the land parcel known as Choronok Farm (Sergoit) 9128 is and was non-existent as of 28th June 1996;
 - ii. The land parcels known as Title No. IR. 145476 measuring approximately 2.032 Ha, Title No. IR. 145477 measuring approximately 2.033 Ha, Title No. IR. 145478 measuring approximately 2.031 Ha, Title No. IR. 145479 measuring approximately 2.031 Ha, Title No. IR. 145480 measuring approximately 2.073 Ha, Title No. IR. 145481 measuring approximately 2.057 Ha, Title No. IR. 145482 measuring approximately 2.003 Ha, Title No. IR. 145483 measuring approximately 2.003 Ha, Title No. IR. 145484 measuring approximately 2.004 Ha, Title No. IR. 145485 measuring approximately 2.002 Ha, Title No. IR. 145486 measuring approximately 2.036 Ha, Title No. IR. 145487 measuring approximately 2.036 Ha, Title No. IR. 145488 measuring approximately 4.079 Ha, Title No. IR. 145489 measuring approximately 4.079 Ha, Title No. IR. 145490 measuring approximately 4.079 Ha,



Title No. IR. 145491 measuring approximately 4.126 Ha, Title No. IR. 145492 measuring approximately 95.62 Ha were solely owned by the objector/Applicant herein as from 19th April 2013 hence were not available for distribution herein as they did not form part of the estate;

- iii. The land parcel known as choronok farm (Sergoit)9128 was subdivided and later transferred to the Objector/Applicant on 19th April, 2013 hence as at 2023, the same was not available for distribution herein.
 - f. That the Grant of administration over the deceased's estate should be revoked and the confirmation annulled since they were obtained through non-disclosure of material facts.
3. The Petitioner in response filed a replying affidavit in which she made various averments which are captured herein verbatim for purposes of context:
- a. That for the record, I am aware of my own knowledge that Fahrenheit Energy Limited has two main shareholders, namely: Geoffrey Kirwa Boit holding 999 shares and Jennifer Wanja Muriuki holding 1 share.
 - b. That the two shareholders are a couple – husband and wife respectively.
 - c. That as can be seen from the CR-12 Fahrenheit Energy Limited was incorporated on 16th March, 2011.
 - d. That the property in question was originally known as: Choronok Farm (Sergoit) LR No. 9128 and it was owned by Choronok Farmers Limited whose shareholders were: Geoffrey Sila Kibet Boit (50 shares) and Pramod Chandra Kalidas Patel (50 shares).
 - e. That upon the demise of Geoffrey Sila Kibet Boit, his son Geoffrey Kirwa Boit became the administrator of his estate.
 - f. That the late Geoffrey Sila Kibet Boit had prior to his demise left a written will through which he distributed his estate including his share of Choronok Farm (Sergoit) LR No.9128.
 - g. That his share of Choronok Farm (Sergoit) LR No. 9168 was to devolve to his two sons, namely: Geoffrey Kirwa Boit and Richard Kipchumba Boit.
 - h. That Geoffrey Kirwa Boit became the administrator of his late father's estate pursuant to Eldoret High Court Succession cause number 156 of 1992.
 - i. That Richard Kipchumba Boit unfortunately passed on before the estate of his late father (Geoffrey Sila Kibet Boit) could be distributed to the beneficiaries.
 - j. That Geoffrey Kirwa Boit then took advantage of his position as the administrator of his late father's estate and the demise of his co-beneficiary (the late Richard Kipchumba Boit) and secured the whole of his father's share of Choronok Farm (Sergoit) LR No. 9128 for himself.
 - k. That the share of Choronok Farm (Sergoit) LR No. 9128 then became known as IR. 69725 upon transfer and registration in the name of Geoffrey Kirwa Boit.
 - l. That following the incorporation of Fahrenheit Energy Limited on 16th March 2011, Geoffrey Kirwa Boit caused land parcel number: IR. 69725 to be sub-divided and the resulting subdivisions transferred to and registered in the name of Fahrenheit Energy on 19th April, 2013 under titles number: IR. 145492, 145476, 145477, 145478, 145479, 145480, 145481, 145482, 145483, 145484, 145485, 145486, 145487, 145488, 145489, 145490, 145491 and 145492.



- m. That it is therefore true that the transfer of ownership of all the particularized parcels of land to the plaintiff herein was done by Geoffrey Kirwa Boit in his capacity as the administrator and beneficiary of the estate of the late Geoffrey Sila Kibet Boit. Geoffrey Kirwa Boit and by extension the plaintiff company did not acquire ownership for valuable consideration.
- n. That while the sub-division and subsequent registration resulted in different parcel numbers, I am advised and I verily believe the same to be true that the process did not change the nature and character of the land.
- o. That it is therefore not accurate for the applicant to allege that the land comprised in the grant is different from those listed in the summons for revocation.
- p. That for a long time Geoffrey Kirwa Boit kept on promising the beneficiaries of the late Richard Kipchumba Boit that he would transfer the deceased's share to them.
- q. That Geoffrey Kirwa Boit eventually reneged on his promise to us.
- r. That it can be deduced from the chronology of events as highlighted above that the delay was a tactic employed by Geoffrey Kirwa Boit to afford him time to form the plaintiff company and to sub-divide and transfer the property to the company in order to defeat any potential claims from the estate of the late Richard Kipchumba Boit.
- s. That when it became apparent that Geoffrey Kirwa Boit was not keen on honoring his promise to us as beneficiaries of the estate of the late Richard Kipchumba Boit, I petitioned for letters of administration intestate of his estate in this cause. The grant has since been confirmed.
- t. That on 21st July, 2023, Geoffrey Kirwa Boit, Edna Cheptoo Boit, Susan Chebet Boit and Joy Cherotich Boit filed summons for revocation of grant in this cause.
- u. That the application was supported by an affidavit sworn by Geoffrey Kirwa Boit on for herself and on behalf of the other objectors.
- v. That the application was heard through viva voce evidence by this honourable court.
- w. That during the oral testimony in court, Geoffrey Kirwa Boit admitted that he had acquired the land from his late father as a beneficiary of his late father's estate.
- x. That this honourable court vide a ruling delivered on 25th October, 2024 found the application to be devoid of merit and dismissed it but with order no as to costs.
- y. That it is worth noting that Geoffrey Kirwa Boit who is a majority and controlling shareholder of Fahrenheit Energy Limited testified before this honorable court and he did not disclose to the court that he had registered a company and sub-divided and transferred the land to the company.
- z. That Geoffrey Kirwa Boit therefore withheld crucial information from court and he must not be allowed to hide behind the legal personality of his company.
- aa. That even though a company is a separate legal entity in law it is simply a legal fiction because a company has no soul or mind of its own and there is always a human being controlling and directing its operations.
- ab. That in the case of Fahrenheit Energy Limited its operations are controlled and directed by its shareholders in this case: Geoffrey Kirwa Boit and Jennifer Wanja Muriuki.



- ac. That as already highlighted in the preceding paragraphs, Geoffrey Kirwa Boit has already participated in this succession cause as an objector and he is the one who testified on behalf of the rest of the objectors.
 - ad. That it therefore follows that Farhenheit Energy Limited was fully aware of and has already taken part in the proceedings.
 - ae. That the present application is therefore res judicata and the same ought to be dismissed with costs.
 - af. That in addition to what is already stated above, it is apparent that Geoffrey Kirwa Boit was placed in a position of trust re the land in question and his co-beneficiary (the late Richard Kipchumba Boit).
 - ag. That the sub-division and registration of the land in the name of the plaintiff company was therefore done in bad faith and with the sole aim of defeating the claims by the estate of the late Richard Kipchumba Boit.
 - ah. That it is trite law that trusts are in the nature of overriding interests and they run with the land and any third party(ies) taking possession of a parcel of land subject to trust does so with all the pre-existing claims.
 - ai. That I was not aware of the fact that the property – Choronok Farm (Sergoit) LR No. 9128 had been sub-divided and transferred to the plaintiff company herein. Those facts were within the knowledge of the director of the plaintiff company herein.
 - aj. That it is therefore the plaintiff company through its director Geoffrey Kirwa Boit) who concealed the information from court and the plaintiff must not be allowed to benefit from it.
 - ak. That contrary to the assertion by the applicant that I did not fulfill the requirements of rule 7 of the Probate and Administration Rules, I am advised and I verily believe the same to be true that I was fully compliant to the extent that the rule requires an applicant to supply "so far as the they may be within the knowledge of the applicant," (d) a full inventory of all ... assets and liabilities at the date of ... death (including such, if any, as may have arisen or become known since that date) together with an estimate of the value of ... assets movable and immovable and ... liabilities.
 - al. That I am advised that in the circumstances of this case this honourable court has unfettered powers under section 74 of the [Law of Succession Act](#) as read together with rule 43, 63 and 73 of the Probate and Administration Rules to rectify/review the grant to conform to the reality and capture the accurate description of the property.
 - am. That I am further advised and I honestly believe the same to be true that the applicant has not come to court with clean hands.
 - an. That I am equally advised and I honestly believe same to be true that the application is completely devoid of merit and is only meant to vex me
4. In rebuttal, the objector filed a further affidavit sworn on 15th September, 2025 in which Jennifer Wanja Muriuki deposed as follows:
- a. That in response to paragraphs 9,10,11,12,13,14,15



- i. It is not true that the late Richard Kipchumba Boit (Deceased) owned half a share of Choronok Farm and this averment is legally unjustified and baseless and is only intended to mislead this Honourable court.
 - ii. Contrary to the Petitioner's averments the estate of Geoffrey Sila Kibet was distributed under the rules of intestacy vide Eldoret HC Succession Cause No. 156 of 1992.
 - iii. At no material time was a will by Sila Kibet Boit (Deceased) considered in the succession case No. 156 of 1992, distribution was done fully in compliance with the rules of intestacy.
 - iv. The suit properties were legally transmitted to Geoffrey Kirwa Boit vide a certificate of confirmation of grant in Succession Cause No. 156 of 1992 which grant has not been challenged to date.
 - v. It is therefore not true that Choronok Farm (Sergoit) LR No. 9128 was to devolve to Geoffrey Kirwa Boit and Richard Kipchumba Boit (Deceased) as alleged by the Petitioner.
 - vi. I am aware from the records herein that contrary to the averments of the petitioner in paragraph 16 of the Replying affidavit, ownership of 50% of Choronok Farm (Sergoit) LR No. 9128 upon dissolution of the company, devolved to Geoffrey Kirwa Boit as a beneficiary to the estate and in accordance with the certificate of confirmation of grant dated 16th March 1994.
 - vii. Contrary to the Petitioner's averments under paragraphs 17, 18 and 38 of the Replying affidavit, I wish to confirm that the sub-division, transfer and subsequent registrations largely changed the nature and the character of the land (In paper and on the Ground) both legally and factually as it introduced 3rd parties as the owners of the subdivisions thereof.
- b. That the contents of paragraph 19,20,21 and 22 of the Replying affidavit are vehemently denied. It is not true that Geoffrey Kirwa Boit made promises to the petitioner and or any of the other beneficiaries of the estate of Geoffrey Sila Kibet Boit. As a matter of fact, I am aware that the estate was distributed and concluded way back in 1996 which fact is within the knowledge of all the beneficiaries, the Petitioner herein included.
- c. That in response to paragraphs 27,28,29,30,31,32,33 and 34 of the Replying affidavit I wish to state as follows; -
- i. The petitioner failed to disclose to the court that the land parcel known as Choronok Farm (Sergoit) 9128 is and was non-existent as of 28th June 1996;
 - ii. The Hon. Court pursuant to the Petitioner's non-disclosure, distributed property that does not exist on paper and on the ground belonging to a 3rd party in total contravention of Rule 7(1) of the Probate and Administration Rules and Section 34 of the [Land Registration Act](#) and in total violation of the Objector's right to property as safeguarded under Article 40 of [the Constitution](#) and all other relevant provisions of the law.
 - iii. The Hon. court further distributed the property belonging to the Objector without according it a chance to be heard contrary to Articles 47,50 and 159 of [the Constitution](#) as read with the [fair administrative Action act](#) and the natural principles of justice;



- iv. The Objector acquired ownership, possession, use and occupation of the said properties from 2013 from Geoffrey Kirwa Boit who acquired ownership thereof in 1996 by transmission and has been in peaceful exclusive possession and use of the same.
 - v. The Petitioner did not conduct a search of the property so alleged to belong to the estate in compliance with Section 34 of the Land Registration Act No. 3 of the 2012 nor did she fulfil the requirements of Rule 7(1) of the Probate and Administration Rules and in the precincts the author of the predicament we are in;
 - vi. I have been informed by our advocates on record which information I verily believe to be true that contrary to the averments of the Petitioner under paragraph 28-31 of the Replying affidavit, it is a principle of company law of long antiquity that a limited company as this one has a legal existence independent of its members and is not an agent of its members nor its members an agent thereof.
 - vii. I am also informed by our advocates on record which information I verily believe to be true that the averments of the Petitioner under paragraph 32,33 and 34 negates the principle of corporate personality in that the objector herein is a different person altogether from its subscribers and directors.
 - viii. In further response, I have been advised by our advocates on record which advise I verily believe to be true that the instant summons for revocation of grant do not fall under the purview of Section 7 of the Civil Procedure Act (Cap 21) Laws of Kenya.
- d. That in response to paragraphs 35,36 and 37 of the Replying affidavit, which contents are vehemently denied, I have been advised by our advocates on record which information I verily believe to be true that this court lacks the jurisdiction to determine and or adjudicate on the issue of trust and/or ownership of the suit properties as it falls in the purview of the Environment and Land court.
 - e. That in further response, the primary duty of a succession court is to determine the free property of a deceased person and to distribute it to his rightful beneficiaries. Thus, where issues are raised regarding title to land or challenging ownership of the deceased to land and/or issues of existence of a trust, such issues ought to be resolved in a separate suit or proceedings before the Environment and Land Court which court is constitutionally and statutorily clothed with jurisdiction to adjudicate on all disputes related to ownership of the registered land.
 - f. That I am further advised by the Objector's advocate on record which information I verily believe to be true that the Objector being the registered owner of the suit properties and by virtue of its registration, is entitled to protection by Article 40 of the Constitution which guarantees the right to own property which rights are also recognized under section 24, 25 and 26 of the Land Registration Act, 2012 hence the court guided by the said provisions is mandated to protect such right by allowing the summons herein.
 - g. That I therefore urge the Hon. court to do what is right and set aside the distribution of property that did not belong to the deceased herein in the interest of justice and fairness and hereby revoke the Grant issued herein and the certificate of confirmation pursuant to section 76(b) of the Law of Succession Act.



Analysis and determination

5. I have carefully considered the affidavit evidence on record, the rival positions of the parties and the submissions filed herein. The Objector/Applicant Fahrenheit Energy Limited seeks revocation of the grant of letters of administration intestate issued to Pamela Boit on 10th June, 2022 and the certificate of confirmation of grant subsequently issued on 14th June, 2023 and 16th December, 2024 respectively. The grounds advanced are that Choronok Farm (Sergoit) LR No. 9128 ceased to exist as of 28th June 1996 and therefore could not form part of the estate of the late Richard Kipchumba Boit, and further that the Objector/Applicant is the registered proprietor of all the successor titles derived from the said land parcel.
6. Before I address those grounds however, there are preliminary and foundational matters that this court must first resolve as they go to the very root of these proceedings.
7. The first and most fundamental question that this court must ask is a simple one. What was the free net estate of the late Richard Kipchumba Boit at the time of his death? It is this question that must anchor the entire analysis because the mandate of this court, as a probate court, is precisely and only to identify the free property of a deceased person at the time of death and to distribute it to the rightful beneficiaries.
8. In *Re Estate of Mbai Wainaina (Deceased) [2015] eKLR* where Musyoka J. correctly observed that:

“Even if there was material establishing that there was such a trust, I doubt that that would be a matter for the probate court. The mandate of the probate court under the *Law of Succession Act* is limited. It does not extend to determine issues of ownership of property and declarations of trusts. It is not a matter of the probate court being incompetent to deal with such issues but rather that the provisions of the *Law of Succession Act* and the relevant subsidiary legislation do not provide a convenient mechanism for determination of such issues. A party who wishes to have such matters resolved ought to file a substantive suit to be determined by the Environment and Land Court.”
9. Therefore, the mandate of the probate court under the *Law of Succession Act* is limited and does not extend to determining issues of ownership of property. That limited mandate must be the guide of this court's analysis.
10. The evidence on record discloses that the late Richard Kipchumba Boit died around the year 1986. He died intestate, was not married and left behind no children. At the time of his death, nothing was registered in his name. He had no independently acquired immovable property, no registered title, and no ascertainable movable estate of record. The petition for letters of administration in respect of his estate was only filed before this court on 17th February 2022, approximately thirty-six years after his death.
11. The Petitioner's claim to Choronok Farm (Sergoit) LR No. 9128 rests entirely on the Will of the late Geoffrey Sila Kibet Boit, being the father of both the deceased herein and Geoffrey Kirwa Boit, the first named Objector in the earlier proceedings and the majority shareholder of Fahrenheit Energy Limited. The Petitioner contends that under paragraph 5 of that Will, the late Geoffrey Sila Kibet Boit bequeathed his share of Choronok Farm in equal portions to his sons Richard Kipchumba Boit and Geoffrey Kirwa Boit. On the face of it, this appears to create a beneficial interest in the deceased herein. However, this court must interrogate that proposition on a deeper level.



12. The late Geoffrey Sila Kibet Boit died on 14th October 1980. The succession proceedings in respect of his estate were lodged before this court as Eldoret High Court Succession Cause No. 156 of 1992 and the certificate of confirmation of grant was issued on 16th March 1994. It is of critical importance to note that those proceedings proceeded as letters of administration intestate. The Objector/Applicant herein has deposed through its director that at no material time was the Will of the late Geoffrey Sila Kibet Boit considered in Succession Cause No. 156 of 1992 and that distribution was done fully in compliance with the rules of intestacy. The Petitioner on the other hand contends that the Will was placed before the court by Geoffrey Kirwa Boit himself as an annexure to his affidavit in those proceedings.
13. Be that as it may, the law is clear on this point. A Will derives its legal force and effect from being admitted to probate or from its provisions being specifically given effect through a confirmed grant in properly constituted testate succession proceedings. Where proceedings are conducted as letters of administration intestate, the provisions of a Will, however morally compelling, are not given legal force by those proceedings. The court in Succession Cause No. 156 of 1992 did not issue a grant of probate. It issued letters of administration intestate. Whatever the Will of the late Geoffrey Sila Kibet Boit may have intended, its provisions were not legally operationalized in those proceedings. The Will therefore remains legally dormant for purposes of establishing any vested right in the estate of the late Richard Kipchumba Boit in these proceedings.
14. The consequence of this finding is significant. At the time of the death of the late Richard Kipchumba Boit in 1986, his father's estate in Succession Cause No. 156 of 1992 had not yet been administered, let alone confirmed. The rights of the beneficiaries in that estate had therefore not accrued or crystallized in law as at the date of Richard's death. Whatever beneficial interest Richard may have had in his father's unadministered estate was at best what I can loosely refer to as an inchoate and contingent right. It was not a vested proprietary right capable of forming part of his free estate. A contingent interest that had not crystallized cannot be administered as free property of a deceased person. It was not available for distribution at the time of his death and it cannot be brought into this estate now.
15. This court is therefore firmly of the view that Choronok Farm (Sergoit) LR No. 9128 and all successor titles derived therefrom do not and cannot form part of the free estate of the late Richard Kipchumba Boit distributable in these proceedings. The confirmation of grant issued in this cause in respect of that property was therefore made in error. This court is careful to observe that this finding does not necessarily import fraud on the part of the Petitioner. She may genuinely have believed that her late brother held an entitlement to the property. However, the legal position, properly examined, does not support the inclusion of that property in this estate.
16. This leads the court to the next critical question. What then becomes of the apparent injustice that these proceedings have brought to light? The evidence on record strongly suggests that Geoffrey Kirwa Boit, as administrator of his late father's estate in Succession Cause No. 156 of 1992, took the entirety of Choronok Farm for himself when on his own account as evidenced by the Will he himself placed before that court, Richard Kipchumba Boit was entitled to an equal share. He subsequently transferred the land to a company in which he holds 999 out of 1,000 shares. The court notes these circumstances with concern. However, the question is whether this court is the appropriate forum to address that injustice in these proceedings.
17. The answer must be in the negative, for the following reasons. The injustice, if established, did not occur in the estate of Richard Kipchumba Boit. It occurred in the estate of their late father, Geoffrey Sila Kibet Boit, being Eldoret High Court Succession Cause No. 156 of 1992. That is the cause in which the Will was ignored in favor of intestacy, and it is in that cause that Geoffrey Kirwa Boit, as



administrator, is alleged to have failed to account to his co-beneficiary's estate. The remedy for that injustice therefore lies in that cause and not in this one. This court cannot, in determining the estate of a son, effectively vary or reopen the concluded administration of his father's estate. To do so would be to exceed the jurisdiction of this court and to sit in appellate jurisdiction over a coordinate court's concluded proceedings, which is constitutionally impermissible.

18. However, the court is careful to observe that the rights of the beneficiaries of the late Richard Kipchumba Boit are not extinguished by this finding. Section 76 of the *Law of Succession Act* provides that a grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion, that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case. The beneficiaries of the estate of the late Richard Kipchumba Boit, through the Petitioner as administrator, are at liberty to move the court in Eldoret High Court Succession Cause No. 156 of 1992 to challenge the distribution made therein on grounds that Geoffrey Kirwa Boit, as administrator, failed to give effect to the Will of the late Geoffrey Sila Kibet Boit which he himself placed before the court, and that he consequently took property that should have devolved equally to the late Richard Kipchumba Boit.
19. Should such an application succeed and the estate of the late Geoffrey Sila Kibet Boit be properly redistributed to include the late Richard Kipchumba Boit's share, that share would then crystallize as an ascertainable asset properly available for administration in this cause. The grant herein would at that stage have identifiable property upon which to operate. The proper sequencing is therefore this: first, the estate of the father must be correctly administered in the correct proceedings; thereafter and only thereafter can the fruits of that administration flow into the estate of the son in these proceedings.
20. On the question of whether the application by Fahrenheit Energy Limited is res judicata by reason of this court's ruling dated 25th October 2024, this court notes the argument advanced by the Petitioner that Geoffrey Kirwa Boit, who controls Fahrenheit Energy Limited, personally participated in the earlier proceedings and testified before this court without disclosing that he had transferred the subject land to the company. While this conduct is a matter of serious concern and reflects poorly on the candor expected of a witness before this court, the court is constrained to observe that Fahrenheit Energy Limited, as a registered company, is in law a separate legal entity from its shareholders.
21. Section 7 of the *Civil Procedure Act* provides that:

“No court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such court.”
22. In the case of William Koross (legal personal representative of Elijah C.A. Koross) v Hezekiah Kiptoo Komen & 4 others [2015] eKLR, the Court of Appeal stated:

“The philosophy behind the principle of res judicata is that there has to be finality; litigation must come to an end. It is a rule to counter the all too human propensity to keep trying until something gives. It is meant to provide rest and closure, for endless litigation and agitation does little more than vex and add to costs. A successful litigant must reap the fruits of his success and the unsuccessful one must learn to let go.”



23. The previous proceedings were between the Petitioner and the individual objectors. The instant application is brought by the company as a registered proprietor of the suit properties. On a strict application of the law, the two applications are not between the same parties and the principle of res judicata as defined under Section 7 of the [Civil Procedure Act](#) does not strictly apply. That said, the court takes the gravest exception to the manner in which Geoffrey Kirwa Boit conducted himself before this court and the deliberate withholding of the company's existence and its registered interests from the court's attention during the earlier proceedings.
24. From the historical litigation of this matter, my appreciation of the record is that there are emerging issues which are not adequately answered by this application filed by the Applicant on amendment of removal of the Assets from the certificate of confirmation of grant based on their registration to a legal entity called Fahrenheit Energy Limited. In the earlier proceedings an application was filed for revocation of grant by the Director of the same company which was declined and reasons given in consonant with Section 76 of the [Law of Succession Act](#). This application on review under Section 80 of the [Civil Procedure Act](#) and Order 45 Rule 1 of the Civil Procedure Rules as read with Rule 73 (1) of the Probate and Administration Rules raises more questions than answers. Undoubtedly, from the record there is a fundamental question which features prominently but not answered with certainty as to whether this is an intestate estate from the word go or a testate estate in view of the last testamentary of the deceased which seems not to have been propounded. That is a legal question which cannot be left unbundled or unpackaged within the spirit and the letter of the [Law of Succession Act](#). There are to me exceptional circumstances in the adjudication of this estate which call for the lifting or piercing the corporate veil of Fahrenheit Energy Limited. I am alive to the fact that courts are generally reluctant to disregard the separate legal personality of a company as it is a corner stone of Company Law. Therefore, the veil is only lifted in exceptional cases where the special circumstances are indicative that that legal device or entity must have been formed and, in our case, to hide something which has a legal impact on the inheritance rights of the beneficiaries. However, that issue cannot be answered conclusively from the rival affidavit evidence so far shared by the parties in this review or amendment of the certificate of confirmation of grant. In a contest of this nature an application for probate shall have been made and framed viz to delve into the issue was the Will duly executed by the deceased as the instrument to distribute the properties which formed the net estate. At what stage of the proceedings did the beneficiaries adapt the model of an intestate estate to give effect to the due legal sharing of the assets? As at the moment the problem in this case it is difficult somehow to define the truth in so far as the current circumstances are concerned.
25. I cannot tell exactly what happened as between the aforementioned last testamentary of the deceased and the subsequent intestate estate proceedings echoed in the Certificate of Confirmation of Grant. It seems to me that the chain of the transactional events culminating the decisions on inheritance made by the session Judges in this matter, the righteousness of which is to be made the subject of inquiry is the execution of the alleged Will and whether it was propounded or not so that the righteousness of the transactions on inheritance can be ascertained within the lens of the law as stipulated in the [Law of Succession Act](#).
26. A Will is a written instrument whereby a person, the Testator (or the Testatrix. If female) expresses their wishes in relation to the disposition of their Estate which they intend to take effect after their death. The term "Estate" in this context refers to the assets that the Testator owned or was entitle to as at the time of his death. Under a Will the Testator appoints someone as an Executor (or Executrix, if female) and once the Will is valid, the Executor can apply for a Grant of Probate after the death of the Testator and distribute his Estate in accordance with his wishes as expressed in his Will.



27. There is a proposition of law, however which I consider it is my duty to put before the heirs to the estate whether the Testator really ever authored the Will proceeded to appoint an Executor and whether the contents of that document was ever read and shared with the beneficiaries. I think in the present case the facts that there was a Will which was executed by the Testator but the evidence on record also shows the distribution was anchored in the model of intestate estate must be given weight apposite in the circumstances which are prevailing from the record of this litigation.
28. For those reasons, having made the foregoing findings, the following orders shall abide:
- a. That the confirmation of grant issued in this cause on 14th June 2023 and subsequently on 16th December 2024 is hereby held in abeyance and shall not take effect with respect to Choronok Farm (Sergoit) LR No. 9128 and all successor titles derived therefrom, including Title Numbers IR. 145476 through to IR. 145492, pending the final determination of any application brought by the Petitioner in Eldoret High Court Succession Cause No. 156 of 1992 challenging the distribution of the estate of the late Geoffrey Sila Kibet Boit.
 - b. That the amendment or review of the Certificate of Confirmation of Grant as of now be and is hereby declined.
 - c. That the grant of letters of administration intestate issued to Pamela Boit on 10th June 2022 is hereby retained and shall remain in full force and effect. The Petitioner shall continue to act as administrator of the estate of the late Richard Kipchumba Boit.
 - d. That the Petitioner is hereby granted liberty to accordingly move the court in Eldoret High Court Succession Cause No. 156 of 1992 for the purpose of challenging the distribution made therein regarding Choronok Farm (Sergoit) LR No. 9128 and establishing the deceased's rightful share in the estate of the late Geoffrey Sila Kibet Boit. Should that succeed and a redistributed share be ascertained, the same shall be deemed to form part of the free net estate of the late Richard Kipchumba Boit and the confirmation of grant held in abeyance shall thereupon be activated and given effect accordingly in these proceedings.
 - e. That in the meantime, no steps shall be taken to implement or execute the confirmation of grant with respect to the said properties pending the outcome of the proceedings in Succession Cause No. 156 of 1992.
 - f. Each party shall bear their own costs of this application.
29. Orders accordingly.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 2ND DAY OF MARCH, 2026

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R. NYAKUNDI
JUDGE

