

REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE NO. E005 OF 2026
IN THE MATTER OF THE ESTATE OF THE LATE SARAH
CHEROGONY (DECEASED)

ANNE CHERONO KOECH1ST
PETITIONER

KIPROP PATRICK CHEPKULUL2ND
PETITIONER

RULING

1.The Deceased herein passed away on 24th June 2024 in Kericho County. She died testate. The Petitioners have presented a Petition for Special Limited Grant dated 26th January 2026. The same is presented in their capacity as the appointed executors to the Deceased Will.

2.The Petition is supported by an Affidavit by the Petitioners in which they aver that at the time of her death, the Deceased was the beneficial owner of the property being premises on Land Reference Number 209/8336/82 situated along Loresho Crescent Nairobi a matrimonial property under the title name of her late husband FRANCIS KIPKEBUT CHEREGONY , from which rental income is collected yet unaccounted for, an act that amounts to outright intermeddling . The Petition seeks an order to collect and

preserve rental income derived therein solely for the benefit of the estate pending the full grant of letters of administration.

3.The Deceased is survived by nine beneficiaries, namely,Nancy Chebet Cherongony ,Nelly Cheptoo Cherogony (deceased),Davies Kiplangat Cherogony ,Oscar Kipkoech Cherogony ,Kenneth Kiprono Cherogony ,Arabella Chepngeno Cherogony ,Eva Chepkirui Cherogony (deceased) ,Linah Chelangat Cherogony and May Kipngeno Cherogony. The Petitioners state that they be given authority to open and operate a joint interest earning account in any Commercial bank purposely to collect rental income from the deceased's property being the premises on Land Reference Number 209/8336/82, situate along Loresho Crescent, Nairobi.

4.To the Application, the Petitioners attached a copy of the letter dated 23rd January 2026 from the Chief, Kapset Location, Bomet County, confirming the Beneficiaries. There is a copy which will be of the confirming the two petitioners as executors and trustees of the Will.

5.Sections 54 and 67 (1) of the *Law of Succession Act*, Cap 160 of the Laws of Kenya and Rule 36 of the Probate and Administration Rules provide the circumstances under which a Special Limited Grant may be issued by the Court.(54)A court may, according to the circumstances of each case, limit any grant of representation which it has jurisdiction to make, in any of the forms described in the Fifth Schedule to this Act.(67) (1)No grant of representation, other than a Limited Grant for Collection and Preservation of

Assets, shall be made until there has been published notice of the application of such grant, inviting objections thereto to me made known to the court within a specified period of not less than thirty days from the date of publication, and the period so specified has expired.(36)(1)Where, owing to special circumstances the urgency of the matter is so great that it would not be possible for the court to make a full grant of representation to the person who would by law be entitled thereto in sufficient time to meet the necessities of the case, any person may apply to the court for the making of a grant of administration ad colligenda bona defuncti of the estate.

7.I have considered the Application and attachments. It is clear that there are rental premises which generate income there is deposition that the rent is currently unaccounted for and that there is risk the of intermeddling. In the circumstances, the estate requires immediate protection pending the filing and determination of a substantive petition for grant of probate or letters of administration with Will annexed.

8.In order to preserve the assets of the estate, the access granted to the Petitioners shall be limited to opening and operating a joint interest earning account solely for purpose of depositing rental income collected. Any further dealing with the estate of the Deceased must be with the authority of the Court or upon full grant of representation.

9. It is apparent that LR. No.209/8336/82 is registered in the name of Francis Kipkebut Cherogony, deceased. The Petition for special limited grant is in respect of the Estate of Sarah Cherogony, deceased. The Petitioners should instead have directed their Petition to the Estate of Francis Kipkebut Cherogony, deceased.

10. The Petition for special limited grant is misplaced. The averment that LR. No.209/8336/82 is matrimonial property has to be properly founded. The end result is that the Petition for special limited grant dated 26/1/2026 is misplaced. The same is dismissed with no orders as to costs.

**Dated, signed and delivered at Kericho this 10th day
of March, 2026.**

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**J. K. SERGON
JUDGE**

In the Presence of:-

C/Assistant - Rutoh

No Appearance