



**In re Cheruiyot (Deceased) (Succession Cause 36 of 2016)  
[2026] KEHC 3143 (KLR) (10 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3143 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 36 OF 2016**

**JK SERGON, J**

**MARCH 10, 2026**

**IN THE MATTER OF THE ESTATE OF JOSEPH KIPRONO CHERUIYOT (DECEASED)  
IN THE MATTER OF REVOCATION OF GRANT  
OF LETTERS OF ADMINISTRATION INTESTATE**

**BETWEEN**

**LYNDAH CHEROTICH CHERUIYOT ALIAS LINDA CHEROTICH  
BOSIRE ..... APPLICANT**

**AND**

**LAWRENCE KIPNGENO RONO ..... RESPONDENT**

**RULING**

1. Before this Court for determination is a Summons for Revocation or Annulment of Grant dated 25<sup>th</sup> April 2025, filed by Lyndah Cherotich Cheruiyot alias Linda Cherotich Bosire (hereinafter "the Applicant"). The application seeks the revocation of a grant of letters of administration intestate issued to Lawrence Kipngeno Rono (hereinafter "the Respondent") on 19<sup>th</sup> September 2017 and confirmed on 26<sup>th</sup> September 2019.
2. The Applicant is a biological daughter of the deceased, Joseph Kiprono Cheruiyot, who died intestate on 4<sup>th</sup> June 2014. She contends that the grant was obtained fraudulently, through concealment of material facts, and without her knowledge or consent, resulting in a discriminatory distribution that excluded her and her sisters.
3. The Respondent has opposed the application through a Replying Affidavit sworn on 28<sup>th</sup> May 2025. The Applicant filed a Supplementary Affidavit on 25<sup>th</sup> July 2025 and subsequently filed Written Submissions and a List of Authorities dated 23<sup>rd</sup> September 2025.



4. I have carefully considered the pleadings, the affidavits on record, the exhibits annexed thereto, the submissions by the Applicant's counsel, and the relevant law.
5. The deceased, Joseph Kiprono Cheruiyot, died on 4<sup>th</sup> June 2014. He was survived by his widow, Evalyne Chepngetich Cheruiyot, and several children, including the Applicant (a daughter) and the Respondent (a son). A comprehensive list of survivors is detailed in the Applicant's Supporting Affidavit.
6. On 19<sup>th</sup> September 2017, this Court issued a grant of letters of administration intestate to the Respondent. The grant was subsequently confirmed on 26<sup>th</sup> September 2019. The confirmed grant provided for the distribution of the deceased's assets to and through a company, JKAC limited.
7. The Applicant claims she was never notified of these proceedings, never gave her consent to the making or confirmation of the grant, and was unaware of them until much later. She contends that the Respondent misrepresented to the court that she was in Canada and unavailable to sign consents, whereas she resides in Finland and could have been contacted.
8. It is not in dispute that JKAC limited was incorporated on 15<sup>th</sup> April 2019, prior to the confirmation of the grant. A copy of the company's CR12 dated 17<sup>th</sup> July 2025 (Annexure "LK4" to the Respondent's affidavit) reveals that its directors and shareholders are the widow and all the sons of the deceased. Notably, the Applicant and her two sisters, Emmy Cheptoo Cheruiyot and Peggy Chepkemai Kirui, are not listed.
9. The Respondent admits this omission, attributing it to an error by the company secretary. He states that only 7,000 out of a total of 50,000 ordinary shares have been allocated and expresses a willingness to rectify the company's particulars to include the excluded sisters.
10. In a significant turn of events, the Respondent, in his Replying Affidavit, introduced a document dated 9<sup>th</sup> July 2014, purporting to be the last Will of the deceased (Annexure "LK1"). He claims the grant was obtained "as per the Will of the deceased."
11. The Applicant's case, as summarized in her affidavits and written submissions, is anchored on the grounds for revocation set out in Section 76 of the *Law of Succession Act* (Cap 160).
12. It is her submission that the grant was obtained fraudulently and by the making of a false statement and by concealment of material facts. She points to the Respondent's failure to list or notify her and her sisters, and the false claim regarding her being in Canada.
13. She further argues that the proceedings were defective in substance, as they were conducted as intestate proceedings, yet the Respondent now seeks to introduce a will. Furthermore, she contends that the process did not comply with the requirement for obtaining the consent of all persons entitled to a share of the estate.
14. The Applicant submits that the use of JKAC limited was a scheme to disenfranchise the female children, which amounts to gender-based discrimination, violating Article 27 of *the Constitution* of Kenya, 2010. She relies on a catena of authorities, including the recent Court of Appeal decision in *Ngoima v Wambeti* [2025] KECA 1477 (KLR), to argue that the omission of daughters from the list of beneficiaries is tantamount to concealment.
15. She dismisses the Respondent's offer to rectify the company's particulars as a "belated afterthought," noting that he had over five years to correct the alleged error but only offered to do so upon the filing of this application.



16. The Applicant also refutes the Respondent's claim that his duties as administrator ended upon confirmation of the grant, correctly citing Section 83 of the [Law of Succession Act](#), which imposes a continuing duty to account.
17. The Respondent's case, as per his Replying Affidavit, is that the grant was obtained properly, "as per the Will of the deceased" and with the knowledge and consent of the other beneficiaries.
18. He admits that the Applicant and her two sisters were erroneously omitted from the shareholding of JKAC limited and that only 7,000 of the 50,000 shares have been allocated. He attributes these errors to the company secretary. He expresses a willingness to resolve the matter amicably and to initiate changes at the Business Registration Service to include the Applicant and her sisters as shareholders and to re-allocate all shares equally amongst all the beneficiaries.
19. Regarding accounts, the Respondent, on the advice of his advocates, claims his duties as administrator lapsed upon the confirmation of the grant. He states that the estate has not yet been distributed and that proceeds have been used to maintain the estate. He also alleges that the Applicant has cut off communication with the family, making it difficult to update her.
20. After a careful review of the material on record, I find that the Respondent's attempt to introduce a written Will at this stage of the proceedings is both curious and problematic. The entire succession cause was filed and processed as an intestate matter. The certificate of confirmation of grant itself is titled "In the Matter of the Estate of... (Deceased)" and does not reference a testate succession.
22. I have carefully examined the document annexed as "LK1." It does not meet the formal requirements of a valid Will under Section 11 of the [Law of Succession Act](#). It is not attested to by two or more competent witnesses in the presence of the testator. The text itself is largely incoherent and does not amount to a clear disposition of property. I therefore find and hold that the document dated 9<sup>th</sup> July 2014 (Annexure "LK1") is not a valid Will. It cannot be used to convert these proceedings from intestate to testate succession. The Respondent's assertion to the contrary is misleading and, at worst, a disingenuous attempt to muddy the waters. The succession remains intestate.
23. The law on revocation of grants is settled under Section 76 of the [Law of Succession Act](#), which provides:

“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;

  - (a) that the proceedings to obtain the grant were defective in substance;
  - (b) 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;
  - (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;...”
24. The Applicant has placed before this Court compelling and uncontroverted evidence that the grounds for revocation have been met.
24. On Concealment and Fraudulent Omission;

It is an admitted fact that the Applicant and her two sisters were not included in the shareholding structure of JKAC limited, the vehicle through which the estate was to be distributed. While the Respondent blames the company secretary, the ultimate responsibility for ensuring all beneficiaries are



- accounted for rests with the administrator. This omission was not a mere administrative oversight; it was a failure to account for a significant portion of the beneficiaries.
25. The Court of Appeal in the case of *Ngoima v Wambeti* [2025] KECA 1477 (KLR), held that the deliberate omission of daughters from the list of beneficiaries amounts to "concealment from the court of something material to the case." The court further stated that such concealment cannot be justified on the basis of discriminatory customs. The facts of *Ngoima* mirror the present case almost exactly. The Respondent's admission of the omission, even if couched as an "error," is tantamount to an admission of concealment. The grant was therefore obtained through a process that concealed the existence and interest of the female beneficiaries. Furthermore, the Respondent's claim that the Applicant was in Canada and thus unable to sign consents was a false statement. The Applicant has deponed, without rebuttal, that she resides in Finland and that no effort was made to contact her. This misrepresentation to the court was intended to procure the grant without her involvement and falls squarely within the ambit of Section 76(b) and (c).
  26. The failure to notify the Applicant and to obtain her consent to the making of the grant renders the proceedings defective. The law is clear, as stated in *Al-Amin Abdulrehman Hatimy v Mohamed Abdulrehman Mohamed* [2013] eKLR, that an application for a grant must be accompanied by the consent of all persons entitled to a share in the estate. The absence of such consent, in the absence of citation, renders the grant unprocedural.
  27. The distribution scheme through JKAC Limited, which explicitly excluded the daughters, is a direct violation of the constitutional guarantee of equality and freedom from discrimination under Article 27 of *the Constitution* of Kenya, 2010. It also offends Article 60(1)(f) on the elimination of gender discrimination in relation to land and property. The principles in *Rono v Rono* [2008] KLR and *Stephen Gitonga M'Murithi v Faith Ngiriamurithi* [2015] eKLR are unequivocal: all children of the deceased are entitled to an equal share of the intestate estate, without regard to gender.
  28. The Respondent's offer to now rectify the company's particulars is, as the Applicant rightly submitted, a belated afterthought. It does not cure the fundamental defect in the process by which the grant was obtained. It is an attempt to salvage a situation that was designed to exclude. Furthermore, the Court cannot compel a beneficiary to become a shareholder in a private company against her will. The Applicant has expressly stated she has no intention of being involved with JKAC Limited.
  29. The cumulative effect of these findings is that the grant was obtained through a process that was defective, involved the concealment of material facts, was based on false statements, and has resulted in a discriminatory administration of the estate. The threshold for revocation under Section 76 has been met.
  30. In the upshot Summons for Revocation dated 25<sup>th</sup> April 2025 is found to be meritorious. Accordingly, this court makes the following orders;
    - a. The grant of letters of administration intestate issued to Lawrence Kipngeno Rono on 19<sup>th</sup> September 2017, and the Certificate of Confirmation of Grant issued on 26<sup>th</sup> September 2019, are hereby revoked and annulled in their entirety.
    - b. All titles that may have been issued pursuant to the revoked grant are hereby cancelled and the same be reverted to the name of the deceased, Joseph Kiprono Cheruiyot.
    - c. The Respondent, Lawrence Kipngeno Rono, is hereby ordered, within sixty (60) days of this ruling, to render to this Court and to all beneficiaries a full and accurate account of all his dealings with the estate of the deceased from the date of the initial grant to the date of



this ruling. This account shall be accompanied by all supporting financial documents, bank statements, and receipts.

- d. Each party to bear their own costs.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 10 {^TH}} DAY OF MARCH, 2026.**

.....

**J. K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

Lumasai for the Administrator/Respondent

