

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. 16 OF 2013

**IN THE MATTER OF THE ESTATE OF KIBERENGE ARAP
SIONGOK ALIAS KIBERENGE A. SIONGOK ALIAS KIBERENGE
SIONGOK (DECEASED)**

**LAWRENCE TERER
WATUGEN.....1ST
PETITIONER/ADMINISTRATOR
ELIZABETH CHEROP
SIONGOK.....2ND
PETITIONER/ADMINISTRATOR**

VERSUS

**ROSA CHEPKORIR
MASWAI.....PROTESTOR**

RULING

1. Before this court for determination is a Summons for Confirmation of Grant dated 4th March 2022 filed by the Petitioners/Administrators, **Lawrence Terer Watugen** and **Elizabeth Cherop Siongok** (hereinafter "the Administrators") which was rectified on 4th December 2025.
2. The application seeks confirmation of the Grant of Letters of Administration Intestate issued to the Administrators on 10th May 2016, and proposes distribution of the deceased's estate as particularized in paragraph 6 of the Affidavit in Support sworn on 4th March 2022.

3. The application is opposed. **Rosa Chepkorir Maswai** (hereinafter "the Protestor") filed an Affidavit of Protest dated 22nd June 2023, challenging the proposed mode of distribution and raising serious allegations against the Administrators.

4. In response, the 1st Administrator filed a Replying Affidavit sworn on 14th July 2025, opposing the Protestor's claims and urging the court to dismiss the protest and confirm the grant as originally proposed.

5. Before the hearing of the protest, the Administrators filed a Summons for Rectification of Summons for Confirmation of Grant dated 20th April 2023, seeking to correct names and identification numbers in the grant. Specifically, they sought to;

a) Rectify the name "ANTHONY KIBET NGETICH" to read "ANTHONY KIBET SIONGOK" and amend his ID No. from 4274525 to 21864649;

b) Rectify the name "CHRISTINE CHEMELI SIONGOK" to read "CHRISTINA CHEMELI SIOWGOK."

This application was allowed by the court. Accordingly, all references in this ruling to these beneficiaries shall adopt the rectified names and identification numbers as per the court's order.

6. I have carefully considered the Summons for Confirmation, the Affidavit in Support, the Affidavit of Protest, the Replying Affidavit,

and all the annexures thereto. This ruling determines the contested Summons for Confirmation of Grant.

7. The Administrators' case is contained in the Summons for Confirmation dated 4th March 2022 and the Affidavit in Support sworn jointly by Lawrence Terer Watugen and Elizabeth Cherop Siongok on the same date.

8. The Administrators depose that the Grant of Letters of Administration Intestate was issued to them on 10th May 2016, and the requisite six months have since lapsed, rendering the grant ripe for confirmation.

9. The Administrators list the following persons as survivors of the estate;

- a) Rose Chepkorir Maswai – Daughter
- b) Esther Chebett Sitienei – Daughter in law
- c) Christina Chemeli Siowgok – Daughter
- d) Esther Chepngetich Leglo – Daughter in law
- e) Anthony Kibet Siongok – Son
- f) Lawrence Terer Watugen – Son (ID No. 6024122)
- g) Kiplangat Stanley Ngetich – Son (ID No. 5195722/68)
- h) Kipkurui Kemei Lenard – Grandson (ID No. 25328172)
- i) David Kiplangat Simbolei – Grandson (ID No. 9726577)

10. The Administrators propose distribution of the estate properties as set out in paragraph 6 of their Affidavit in Support, which includes various parcels within FORT-TERNAN and KOKWET BLOCKS with specific allocations to the named beneficiaries. The Administrators attached a Consent to Confirmation of Grant dated 4th March 2022, purportedly signed by all nine beneficiaries, including the Protestor herein.

11. In the Replying Affidavit filed in response to the protest, the 1st Administrator, Lawrence Terer Watugen, deposes that:

a) The deceased was married to four wives, married in 1930, 1948, 1952, and 1982 respectively.

b) The Protestor is indeed the 4th wife to the deceased.

c) The deceased acquired all his property and settled all his families as he wished, with no complaint arising prior to his demise.

d) The claim of forged signature is unfounded, as the Protestor never raised any objection at the commencement of these proceedings.

e) The Protestor's proposed mode of distribution would bring chaos to the estate and contradicts the deceased's wishes as expressed during his lifetime.

f) The Administrators did not alter any allocation made by the deceased.

g) Among all the beneficiaries, only the Protestor objects to the proposed distribution.

12. The 1st Administrator urges the court to dismiss the protest and proceed to confirm the grant as per the Affidavit of Confirmation dated 4th March 2022.

13. The Protestor's case is contained in her Affidavit of Protest sworn on 22nd June 2023.

14. The Protestor deposes that she is a surviving widow of the deceased, being the 4th wife, and that Christina Chemeli Siowgok is the 5th surviving widow. She contends that the Administrators erroneously described them as "Daughters" in paragraph 5 of the Affidavit in Support.

15. The Protestor asserts that she and Christina Chemeli Siowgok are widows of the deceased, entitled to inherit as such, and not as daughters as wrongly depicted by the Administrators. Notably, the Administrators' subsequent rectification application did not address this fundamental issue of status. The Protestor avers that the signature appearing against her name in the Consent to Confirmation of Grant filed by the Administrators is not hers. She deposes that she never signed any consent to the proposed mode of distribution. She further avers that the Administrators have omitted a material asset of the estate; an 18.5-acre farm in Ngata, Rongai, within Nakuru County, where the deceased had settled the 2nd Household. This property, she contends, forms part of the deceased's estate and ought to be included in the

distribution. She then provides what she describes as a complete and accurate inventory of the deceased's estate properties, totaling 196.98 acres, contrary to the fragmented list presented by the Administrators.

16. The Protestor proposes distribution based on equality among the four houses of the deceased, taking into account the 18.5-acre Ngata farm already in possession of the 2nd Household. She proposes specific allocations to each household as detailed in paragraph 11(i)-(iv) of her affidavit.

17. The Protestor prays that this court disallows the Administrators' proposed mode of distribution and instead directs that the estate property be distributed equally amongst the deceased's four households as per her proposal.

18. From the pleadings filed herein, the following issues emerge for determination:

a) Whether the Protestor and Christina Chemeli Siowgok are widows or daughters of the deceased;

b) Whether the Consent to Confirmation of Grant dated 4th March 2022 bearing the signature of the Protestor is genuine or a forgery;

c) Whether the 18.5-acre farm in Ngata, Rongai forms part of the deceased's estate and ought to be included in the distribution;

d) What is the fair and just mode of distribution of the deceased's estate;

e) Whether the Grant of Letters of Administration Intestate issued on 10th May 2016 should be confirmed.

19. I have carefully considered the rival pleadings, the evidence on record and the applicable law.

20. The Administrators, in their Affidavit in Support, described the Protestor and Christina Chemeli Siowgok as "Daughters ". The Protestor contends that this is a misrepresentation, asserting that both she and Christina are surviving widows of the deceased, being the 4th and 5th wives respectively. In his Replying Affidavit, the 1st Administrator admits that the deceased was married to four wives, married in 1930, 1948, 1952, and 1982. He further admits that the Protestor "is the 4th wife to the deceased."It is also evident in the chief,s letter dated 8.8.2012 that the protestor is the 4th wife.

21. Regarding Christina Chemeli Siowgok, the Administrators initially described her as a "Daughter" but subsequently sought rectification of her name only, without addressing her status. The rectification application merely corrected the spelling of her name from "Christine Chemelei Siongok" to "Christina Chemeli Siowgok" but did not alter her designated status as "Daughter."I have

perused the chief's letter dated 8.8.2012 listing one Christine Siongok as a wife. Also, the affidavit in support of the petition dated 8th February 2013 lists Christine Siongok as coming from the 3rd House.

23. Under the Law of Succession Act, particularly Section 29, a widow is a dependent entitled to a share of the estate. The court notes that the Administrators have not provided any explanation for the discrepancy between their initial description of the Protestor as "Daughter" and their subsequent admission that she is the 4th wife. This inconsistency raises questions about the accuracy and reliability of the Administrators' pleadings.

24. Regarding Christina Chemeli Siowgok, the evidence is inconclusive. The Administrators describe her as a "Daughter " while the Protestor claims she is the 5th widow. The Administrators' Replying Affidavit does not address this specific claim, and the rectification application did not alter her status. In the absence of clear evidence, and given the Administrators' admission of only four wives, I am inclined to find that Christina Chemeli Siowgok is a WIFE of the deceased, owing to the chief's letter and the affidavit in support of the petition.

24. I also find and hold that the Protestor, Rosa Chepkorir Maswai, is a surviving widow of the deceased, being the 4th wife, and is entitled to inherit as such.

25. The Protestor has made a serious allegation that the signature appearing against her name in the Consent to Confirmation of

Grant dated 4th March 2022 is not hers. She states categorically: "The signature allegedly signed against my name in the consent to confirmation of grant filed herein by the petitioners is not mine." In response, the 1st Administrator merely states that this claim is "not founded" and notes that the Protestor never raised any objection at the commencement of the proceedings. He does not provide any evidence to rebut the allegation of forgery, such as calling a handwriting expert or producing a witness who saw the Protestor sign the document.

26. The court has examined the Consent to Confirmation of Grant. The signature against the Protestor's name appears as "R.C." The Protestor's name is Rosa Chepkorir Maswai. There is no explanation as to why her signature would appear as name initials if she indeed signed the document. Furthermore, the fact that the Protestor has now filed a formal protest, risking family discord and legal costs, is consistent with her claim that she did not consent to the proposed distribution. It is unlikely that a beneficiary who genuinely consented would later file a protest and allege forgery without good cause.

27. I therefore find and hold that the Protestor has raised a credible claim that her signature on the Consent to Confirmation of Grant was not genuinely appended. The Administrators have failed to rebut this claim with any credible evidence. Consequently, the Consent to Confirmation of Grant, insofar as it relates to the Protestor, cannot be relied upon by this court.

28. The Protestor avers that the deceased owned an 18.5-acre farm in Ngata, Rongai, within Nakuru County, where he settled the 2nd Household. She contends that this property forms part of the deceased's estate and ought to be included in the distribution. Strikingly, the Administrators' Affidavit in Support and the proposed mode of distribution make no mention whatsoever of this property. The Replying Affidavit is also completely silent on this issue. The 1st Administrator does not deny the existence of this property; he simply ignores the allegation entirely.

29. The Administrators' failure to address the existence of the Ngata farm is deeply concerning. If the property exists and belonged to the deceased, its omission from the distribution schedule means the proposed mode of distribution is incomplete. However, the protestor has failed to provide any document to show the existence of ngata farm. He who alleges must prove. I find and hold that in the absence of prove, I cannot affirm the existence of the same.

30. The Protestor has provided what she describes as a complete inventory of the deceased's estate properties, totaling 196.98 acres. This inventory includes;

a) **KERICHO/CHILCHILA/FORTTERNAN
BLK7(KOISAGAT)159 -**

2.85 Acres

b) **KERICHO/CHILCHILA/KOKWET/BLK1/CHEPKITAR B)179**

-

4.3 Acres

**c) KERICHO/CHILCHILA/FORTTERNAN
BLK7(KOISAGAT)244 -**

1.42 Acres

d) KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR)/47 -

19.27 Acres

e) KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)97 -

13.65 Acres

f) KERICHO/KOKWET/BLK7(CHEPKITAR)256 - 26.77 Acres

g) KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)172

-

4.3 Acres

**h)
KERICHO/CHILCHILA/FORTTERNAN/BLK7(KOISAGAT)115 -**

58.5 Acres

i) KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR 'B')58 -

19.27 Acres

**j) KERICHO/CHILCHILA/FORTTERNAN/BLK4(CHEPKITAR
'A')2 -**

38.87 Acres

31. The Administrators' Affidavit in Support lists properties but does not provide a comprehensive schedule with acreages that allows for easy verification of the total estate. The court notes that the Administrators' proposed distribution appears to allocate portions of these same properties, but without a clear accounting of the total acreage available.

32. Given the Administrators' failure to provide a clear inventory, I find that the Protestor's inventory is more comprehensive and reliable. I therefore adopt the Protestor's inventory as the complete list of the deceased's estate properties for the purposes of these proceedings.

33. Having found that the Protestor is a widow, that her consent was not genuinely obtained, and that the Protestor's inventory is comprehensive, the court must now determine the appropriate mode of distribution.

34. The Administrators propose distribution based on what they claim were the deceased's wishes during his lifetime, specifically that he had "settled all his families as he wished." The Protestor proposes distribution based on equality among the four houses.

35. Section 40 of the Law of Succession Act provides the framework for distribution in polygamous estates. It states;

"Where an intestate has married more than once under any system of law permitting polygamy, his personal and household effects and the residue of the net intestate estate shall, in the first instance, be divided among the houses according to the number of children in each house, but also adding any wife surviving him as an additional unit to the number of children."

36. The Court of Appeal in ***Rono v Rono [2005] eKLR*** emphasized that while Section 40 provides a formula, the court has discretion to apply it flexibly to achieve fairness. The court

must consider factors such as: whether the deceased had, during his lifetime, made gifts to any of the children or wives; whether any child or wife had already received a substantial portion of the estate; and the need to avoid disrupting settled possession.

37. In the present case, the Administrators argue that the deceased had already settled his families during his lifetime, and that the proposed distribution merely formalizes those settlements. The Protestor, on the other hand, argues for equal distribution among houses.

38. The court notes that the Administrators' proposal, as detailed in paragraph 6 of their Affidavit in Support, allocates specific parcels to individual beneficiaries rather than to houses. This approach does not align with Section 40, which contemplates distribution among houses in the first instance.

39. The Protestor's proposal, on the other hand, adopts a house-based approach. She proposes:

a) 1st Household;

KERICHO/CHILCHILA/KOKWET BLK1/CHEPKITAR B)/79 (6.93 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)172 (1.07 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR 'B')58 (4.82 Acres), and KERICHO/CHILCHILA/FORTTERNAN/BLK7(KOISAGAT)115 (41.05 Acres) - total approximately 53.87 Acres.

b) 2nd Household;

KERICHO/CHILCHILA/FORTTERNAN BLK7(KOISAGAT)159 (2.85 Acres), KERICHO/CHILCHILA/KOKWET BLK1/CHEPKITAR B)/79 (2.65 Acres), KERICHO/CHILCHILA/FORTTERNAN BLK7(KOISAGAT)244 (1.42 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR)/47 (7.9 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR 'B')58 (4.82 Acres), and KERICHO/KOKWET/BLK7(CHEPKITAR)256 (14.61 Acres) - total approximately 34.25 Acres.

c) 3rd Household;

KERICHO/CHILCHILA/KOKWET BLK1/CHEPKITAR B)/179 (6.93 Acres), KERICHO/KOKWET/BLK1/CHEPKITAR B)/176 (12.16 Acres), KERICHO/CHILCHILA/FORTTERNAN/BLK7/KOISAGAT/18 (17.45 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/172 (1.00 Acre), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/58 (4.82 Acres), and KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/97 (2.18 Acres) - total approximately 44.54 Acres.

d) 4th Household;

KERICHO/CHILCHILA/KOKWET BLK1/CHEPKITAR B)/179 (6.93 Acres),

KERICHO/CHILCHILA/FORTTERNAN/BLK4(CHEPKITAR A)/2 (38.87 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/172 (1.07 Acres), KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/58 (4.82 Acres), and KERICHO/CHILCHILA/KOKWET/BLK1(CHEPKITAR B)/97 (2.18 Acres) - total approximately 53.87 Acres.

40. The Protestor's proposal achieves approximate equality among the four houses. This approach aligns with the spirit of Section 40 while respecting the deceased's lifetime arrangements.

41. The Administrators' proposal, by contrast, appears to favor certain individuals. Moreover, the Administrators have not provided a clear justification for why their proposed allocations are fair and equitable. I am persuaded that the Protestor's proposed mode of distribution is more consistent with the Law of Succession Act and the principles of fairness and equity. It respects the house-based structure of the deceased's family, and achieves approximate equality among the houses.

42. Section 71 of the Law of Succession Act provides for confirmation of grants. A grant may be confirmed once the court is satisfied that all beneficiaries have been identified, all assets accounted for, and a fair mode of distribution proposed.

43. In the present case, the court is not satisfied that these conditions have been met. The Administrators have;

a) Misrepresented the status of a key beneficiaries (the

Protestor) and Christine Chemeli;

b) Filed a consent that is, on the balance of probabilities, not

genuinely signed by the Protestor;

c) Failed to provide a complete and accurate inventory of the

estate;

e) Proposed a mode of distribution that does not align with the

Law of Succession Act.

44. For these reasons, the Administrators' Summons for Confirmation of Grant dated 4th March 2022 cannot succeed. The grant issued on 10th May 2016 shall not be confirmed on the basis of the Administrators' proposal. However, this does not mean that the grant must remain unconfirmed indefinitely. The estate must be distributed, and the beneficiaries are entitled to finality. The appropriate course is to allow the Protestor's proposed mode of distribution, as it provides a comprehensive and equitable framework for distributing the estate.

45. Accordingly, I make the following orders;

a) The Summons for Confirmation of Grant dated 4th March 2022 is hereby dismissed.

b) The Affidavit of Protest dated 22nd June 2023 is hereby upheld.

c) It is hereby declared that Rosa Chepkorir Maswai is a

***surviving widow of the deceased, being the 4th wife,
and is***

entitled to inherit as such.

***f) The Grant of Letters of Administration Intestate issued
to***

***Lawrence Terer Watugen and Elizabeth Cherop Siongok
on***

***10th May 2016 is hereby confirmed on the terms proposed
by***

***the Protestor in paragraph 11(i)-(iv) of her Affidavit of
Protest***

dated 22nd June 2023.

***g) The 2000 shares in Cooperative Bank of Kenya shall be
shared equally amongst the four households.***

h) Each party shall bear their own costs.

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

.....
**J. K. SERGON
JUDGE**

In the Presence of:-

C/Assistant - Rutoh

Miss Koech for the Protestor

No Appearance for the Petitioners