

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

SUCCESSION CAUSE NO. 212 OF 2014

**IN THE MATTER OF THE ESTATE OF THE LATE EDGAR
KIPROTICH KORIR (DECEASED)**

**GLADYS CHEPKURUI KORIR.....1ST
PETITIONER/APPLICANT**

**IAN KIPNGENO.....2ND
PETITIONER/APPLICANT**

VERSUS

JONAH KIPYEGON KORIR.....1ST OBJECTOR

JOSEPH KIPKEMOI KORIR.....2ND OBJECTOR

RULING

1. The subject matter for determination is the Petitioners/Applicants' Notice of Motion application dated 21st March 2025. The application seeks the following orders;

a) THAT this Honourable Court be pleased to Review its Confirmed Grant dated the 17th day of August 2016.

b) THAT costs of this application be in this cause.

c) THAT this Honourable Court do issue further orders it deems fit and just to grant.

2. The application is supported by the Supporting Affidavit of GLADYS CHEPKURUI KORIR, the 1st Petitioner, sworn on 21st March 2025, and the annexures thereto.

3. The application is opposed. The Objectors/Protestors, JONAH KIPYEGON KORIR and JOSEPH KIPKEMOI KORIR, filed a Replying Affidavit sworn by the 1st Objector on 24th July 2025.

4. The parties agreed to dispose of the application by way of written submissions. The Petitioners filed their Written Submissions, while the Objectors did not file any submissions.

5. I have carefully considered the application, the grounds in support, the replying affidavit, and the Petitioners' written submissions.

6. The Petitioners are the widow and son, respectively, of the late EDGAR KIPROTICH KORIR (hereinafter "the deceased"), who passed away on 13th September 2012. They commenced this succession cause in 2014 and obtained a Grant of Letters of Administration, which was subsequently confirmed on 17th August 2016.

7. The Petitioners depose that after confirmation of the grant, they discovered that the deceased was also the registered owner of land parcel SONGHOR/KABUTIE BLOCK 1 (SENETWO)/66, which had not been included in the confirmed grant. They have attached a copy of the title deed and an official search GCK 3 (a) and (b)) to prove the deceased's registration as owner.

8. Additionally, the Petitioners point out a typographical error in the confirmed grant, wherein the 1st Petitioner's name is captured as "GLADYS CHEPKIRUI KORIR" instead of her true name,

"GLADYS CHEPKURUI KORIR," as evidenced by her National Identity Card.

9. The Petitioners explain the delay in bringing this application from 2016 to 2025 on the grounds that they are laypersons, faced financial constraints, and only recently appointed advocates.

10. The Petitioners also note that the 1st Objector has lodged a caution against the title to the suit property, yet the Objectors are not listed as beneficiaries of the deceased's estate. The Chief's letter dated 15th July 2013 lists the beneficiaries as the widow and her five children only.

11. In their written submissions, the Petitioners argue that the suit property is registered in the deceased's name, and a title deed is prima facie proof of ownership. They contend that if the Objectors have a claim of fraud, their remedy lies in filing a separate suit in another forum.

12. The Objectors, who are brothers of the deceased, depose that the suit property, together with another parcel, BARINGO/MUMBERE/S539, formed part of the estate of their late father, SAWE ARAP SIELIE. They allege that their late brother (the deceased herein) was entrusted to be a caretaker of the two parcels but later fraudulently had the same registered in his name.

13. The Objectors further depose that there is an ongoing succession cause in the Chief Magistrate's Court at Kericho, being Kericho CMSC No. 269 of 2018, in respect of their late father's

estate, and that the 1st Petitioner herein is the Objector in that matter.

14. They argue that the Petitioners' application is an abuse of the court process and that the claim of recent discovery is untrue given the 10-year delay.

15. The singular issue that fundamentally disposes of this application is;

Whether the Notice of Motion dated 21st March 2025 is competent and capable of being granted.

16. This Court has carefully examined Prayer 1 of the Notice of Motion dated 21st March 2025, which states:

"THAT this Honourable Court be pleased to Review its Confirmed Grant dated the 17th day of August 2016."

17. The question this Court must answer is: Review it for what purpose? To achieve what outcome?

18. The prayer, as framed, is entirely vague. It does not specify;

- *What aspect of the Confirmed Grant should be reviewed;*
- *What amendments or changes are being sought;*
- *Whether the review is to include a new asset, correct a name, or vary the distribution;*
- *The specific orders the Petitioners desire this Court to make.*

19. The law is well settled that prayers in an application must be specific and clear. In the case of ***Kimani v Mungai & 2 others (Civil Appeal 49 of 2019) [2023] KEHC 702 (KLR)***, the court addressed the importance of clarity in pleadings. While that case dealt with different facts, the principle remains that a court cannot grant relief that is not clearly prayed for or that is framed in such vague terms that the court cannot discern what is being sought.

20. In ***Najma Akasha & another v Republic [2004] eKLR***, the High Court dealt with an application where the supporting affidavit contained averments that were incompetent due to non-disclosure of sources. The court struck out the incompetent paragraphs and held that the remaining averments could not sustain the application. The court emphasized that where an application lacks proper substantiation, it fails. The corollary principle applies here; where the primary prayer itself is vague and unsubstantiated by a clear request for specific relief, the application cannot stand.

21. The Petitioners' advocate has placed the specifics of what is sought in the grounds and in the supporting affidavit. The grounds state that the Petitioners discovered a new land parcel and that there is an error in the 1st Petitioner's name. The supporting affidavit similarly deposes to these facts.

22. However, it is a fundamental principle of pleadings that prayers must stand on their own. The grounds explain why relief

should be granted; the prayers state what relief is sought. A prayer that merely says "review the grant" without specifying the review sought is akin to a blank cheque. It asks the Court to guess what the Petitioners want and then fashion relief accordingly. This Court does not create relief for parties who have not clearly requested it.

23. As held in ***Najma Akasha*** (supra), where the application is unsubstantiated and the grounds remain "mere statements without evidence," the application fails. Here, even if the grounds contain specifics, they cannot remedy the fundamental defect that the prayer itself is vague. The Court is being asked to "review" without being told what the review should accomplish.

24. This Court is mindful of the constitutional imperative under Article 159(2)(d) of the Constitution to administer justice without undue regard to technicalities. However, procedural rules exist to serve the ends of justice, not to defeat them. The requirement that prayers be specific is not a mere technicality; it is a fundamental pillar of fair hearing. A respondent cannot respond to a prayer they do not understand. A court cannot grant relief it cannot discern.

25. The Petitioners had the opportunity to frame their prayers clearly. They did not. They chose to file a vague prayer and leave the specifics to the grounds.

26. This Court cannot rewrite the Petitioners' application for them. To do so would be to descend into the arena and risk partiality. As

was held in ***Elijah Otenyo & 14 others v Church of God in East Africa (Kenya) [2021] eKLR***, the court's role is to adjudicate based on what is placed before it, not to fill gaps in a party's case.

26. This Court finds that the Notice of Motion dated 21st March 2025 is incompetent by reason of the vagueness of the primary prayer. A prayer that simply asks the Court to "review its Confirmed Grant" without specifying the nature and extent of the review sought is incapable of being granted. The Court cannot issue orders in a vacuum. Even if there was a proper Application, the orders sought cannot be granted. The asset left out in the succession Cause should be treated as an un-administered Estate.

27. In the end, the Application dated 21/3/2025 is without merit. Consequently, the Notice of Motion Application dated 21/3/2025 is hereby dismissed. Each party shall bear their own 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

Bett for the Petitioner

No Appearance for Siele Sigira for the Objector