

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. E020 OF 2020

**IN THE MATTER OF THE ESTATE OF THE LATE CATHERINE
CHEPNGETICH MAINA (DECEASED)**

**PATRICK
RUTO.....PETITIONER/RESPONDENT**

KIBIEGON

VERSUS

**HENRY KIPNGETICH RUTO.....
APPLICANT**

**ALFRED KURGAT.....INTERESTED
PARTY**

RULING

1. The subject matter of this ruling is the Summons for Revocation of Grant dated 13th June, 2025 whereof **Henry Kipngetich Ruto**, the Applicant herein sought for inter alia:
 - (i) ***THAT this Honourable Court be pleased to revoke and/or annul the Grant issued on 14th December, 2020 to PATRICK KIBIEGON RUTO.***
 - (ii) ***THAT this Honourable Court be pleased to issue an Order for Cancellation of the newly effected transfer of Parcel Number L.R. No. KERICHO/LITEIN/482 now having Joesep Kiplangat Rono, Joel Kipkemoi Ruto, Patrick Kipyegon Ruto, Elijah Kiprotich , Henry Kipngetich and Alfred Kipkirui Kurgat as the registered propriertors***

and the same revert to its Original state with the deceased as the registered proprietor.

(iii) THAT this Honourable Court be pleased to issue and Order for cancellation of the transfer of the Parcel Known as L. R. No. KERICHO/LITEIN/1317 now registered under Henry Kipngetich Ruto and the same revert to its original state with the deceased as its registered proprietor.

(iv) THAT the costs of this application be provided for.

2. The Applicant filed an Affidavit he swore in support of the summons. When served with the Summons, ***Patrick Kibiegion Ruto***, the Petitioner/Respondent filed an Affidavit in reply sworn by ***Alfred Kurgat***, the Interested Party oppose the Summons.

3. I have considered the grounds set out on the face of the summons and the facts deponed in the rival Affidavits. It is the Applicant's submission that the proceedings to obtain the grant were defective and incompetent in substance therefore the grant should be declared as void. It is the averment of the Applicant that the grant was obtained by means of forgery since some of the beneficiaries namely: ***Elijah Kiprotich Moyobei*** who resided in India did not sign the documents and was not consulted.

4. It is also pointed out that the confirmed grant is laced with patent and latent mistakes thus rendering its implementation unjust and inequitable. The Applicant further avers that the Summons for Confirmation of Grant inaccurately reflects the agreed mode of distribution and goes against the agreed mode of distribution reached at the family meeting. He gave the example of **L.R. No. Kericho/Litein/482** which comprises of a tea farm covering approximately 3 Acres and the remaining portion being without tea bushes. It is said that in the family meeting, it was agreed that each beneficiary will get a portion with tea and the other without tea.

5. It is the Applicant's averment that the Summons for Confirmation of Grant did not specify the total acreage each beneficiary is entitled to in the portion with tea and without tea. The Applicant stated that he could not therefore sign the transmission forms in respect of **LR. No. Kericho/Litein/482**.

6. In his response, the Petitioner/Respondent stated that the grant was confirmed on 27th March, 2023 and a Certificate of Confirmation of Grant was subsequently issued and that the said grant has been fully implemented thereby closing **LR. No. Kericho/Litein/482** on subdivision and new title numbers were issued i.e. **Kericho/Litein/1317, 1067, 3057 - 3061**. It is also pointed out by the

Petitioner/Respondent that the estate was distributed equally amongst the beneficiaries as per the proposed mode of distribution.

7. The Petitioner further argued that no protest was filed against the Summons for Confirmation of Grant. The Petitioner also stated that the Respondent failed to cooperate, execute and sign the mutation forms prompting this Court to authorize its Deputy Registrar to execute the necessary documents upon application.
8. After a careful consideration of the rival averments, it is apparent that Applicant is seeking for the revocation and annulment of the grant made on 14th December, 2020 to **Patrick Kibiegon Ruto**. The main grounds put forward are that the grant was obtained using defective proceedings and incompetent in substance. It is argued that one **Elijah Kiprotich Moyombei** did not sign the documents.
9. This Court has perused the Summons for Confirmation of Grant plus the Supporting Affidavit. It is clear that the name of one **Elijah Kiprotich Moyombei** is not listed as a beneficiary hence he could not be expected to sign any document. However, if the Applicant meant to refer to **Elijah Kiprotich Ruto** as one and the same person as **Elijah Kiprotich Moyombei** then his assertion that he

(Elijah) did not sign the consent document will fall by the wayside.

10. It is apparent that **Elijah Kiprotich Ruto** was named as one of the beneficiaries of the estate. It is shown that he signed the consent form. It is not alleged that someone forged his signature. **Elijah Kiprotich Ruto** has not personally come forward to complain that his signature was forged. It is not in dispute that no one file a protest against the Summons for Confirmation of Grant. The Applicant has instead opted to file a summons for revocation of grant under Section 76 of the Law of Succession Act.

11. When it comes to annulment or revocation of grants, the factors to be considered are spelt out under Section 76 of the Law of succession as follows:-

(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;

(d) That the person to whom the grant was made has

failed, after due notice and without reasonable cause

either:

(i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as

the court order or allow; or

(ii) to proceed diligently with the administration of the

estate; or

(iii) to produce to the court, within the time prescribed,

any such inventory or account of administration as

is required by the provisions of paragraphs (e) and

(g) of section 83 or has produced any such inventory

or account which is false in any material particular;

or

(e) That the grant has become useless and inoperative

through subsequent circumstances.

12. The Applicant has merely stated that the grant was obtained by forgery. He also alleged that the grant was obtained through proceedings which were defective and incompetent. The Applicant failed to give the particulars of forgery or defects. He also failed to tender cogent evidence to establish forgery, fraud and or defects. The record indicates that the succession dispute was also referred to Court Annexed Mediation and the Court subsequently adopted the Mediation Settlement Agreement. It is also

apparent that the Certificate of Confirmation of Grant has fully been implemented.

13. The Petitioner/Respondent has ably shown that the estate land namely: **L.R. Kericho/Litein/482** was closed upon subdivision and that new titles were issued to the beneficiaries. With respect, I am persuaded by the submissions of the Petitioner/Respondent that the Applicant's Summons for Revocation of Grant was filed as an afterthought and after the summons for Confirmation of Grant was issued and fully implemented.

14. In the end, I find the summons dated 13th June, 2025 to be without merit. The same is ordered dismissed. This being a family dispute, I direct that each party should meet his or her 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

No Appearance