



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ITEN
JUDICIAL REVIEW CAUSE NO.E017 OF 2022

IN THE MATTER OF LEAVE TO INSTITUTE JUDICIAL REVIEW
AND
IN THE MATTER OF CHESOI LAND ADJUDICATION SECTION
ELGEYO MARAKWET COUNTY, MARAKWET EAST SUB
COUNTY
AND
IN THE MATTER OF LAND PARCELS NOS.2379, 2378, 2391,
2374, 2376, 2394, 2371, 2377, 2355, 2373, 2392 AND 2375
AND
IN THE MATTER OF JUDICIAL REVIEW ORDERS OF
CERTIORARI AND PROHIBITION
AGAINST
THE LAND ADJUDICATION OFFICER ELGEYO MARAKWET
COUNTY, THE COUNTY COMMISSIONER, ELGEYO
MARAKWET COUNTY, LAND REGISTRAR, ELGEYO
MARAKWET COUNTY
AND
IN THE MATTER OF ARTICLE 40 OF THE CONSTITUTION OF
KENYA
AND
IN THE MATTER OF LAND APPEAL CASE NO. 515 OF 2020
TO THE MINISTER FOR LANDS
AND
IN THE MATTER OF LAND ADJUDICATION ACT, CAP 284
LAWS OF KENYA

BETWEEN

REPUBLIC
APPLICANT

= AND =

**COUNTY COMMISSIONER,
ELGEYO MARAKWET & 3 OTHERS
RESPONDENTS**

**ISAAC KIBOR CHELAWA &
2 OTHERS EX PARTE
APPLICANTS**

**JOEL KIPKEMOI TANUI &
2 OTHERS INTERESTED
PARTIES**

**PAUL KIPLAGAT KIBOR (IN HIS OWN
BEHALF AND ON BEHALF OF THE ESTATE
OF ISAAC KIBOR CHELAWA) EX PARTE
APPLICANT**

R U L I N G

Background

1. Paul Kiplagat Kibor, hereinafter referred to as the applicant, filed the notice of motion application dated 13th October 2025 seeking the following orders:-

- a) Spent
- b) That the firm of M/s. C.K Kipkosgei Law Advocates be granted leave to come on record for the *ex parte* applicants.
- c) That there be a temporary stay of execution of the

judgment delivered by the honourable court on the 6th day of December 2022 pending hearing and determination of the application

- d) That the warrants of arrest in execution issued against Michael Komen Ruto be temporarily lifted and/or set aside pending the hearing and determination of the application *inter partes*;
- e) That the honourable court do grant leave out of time to substitute the 1st *ex parte* applicant, Isaac Kibor Chelawa-deceased with Paul Kiplagat Kibor
- f) That the honourable court do grant orders for amendment of the names of the *ex parte* applicant, Isaac Kibor Chelawa-deceased to read Paul Kiplagat Kibor who is the son of the late Isaac Kibor Chelawa-deceased
- g) That costs of the application be borne by the interested parties/respondents.

2. The application is premised on the grounds on its face and supported by the affidavit of the applicant, Peter Kiplagat

Kibor, sworn on 13th October, 2025 in which the grounds on the face of the application are reiterated.

ORIGINAL

3. As can be discerned from the grounds on the face of the application and the affidavit sworn in support thereof, the applicant is desirous of being made a party to the execution proceedings before the court as a prospective legal representative of the estate of his father, Isaac Kibor Chelawa, who was a party to the suit herein.
4. The respondents did not file a response to the application. However, when the application came up for mention on 4th November, 2025 to confirm that the application had been served on the respondents, counsel for the respondent informed the court that the money that formed the subject matter of the application had since been paid in full and for that reason the application had been overtaken by events.
5. In a rejoinder, counsel for the applicant told the court that only the prayer for stay of execution had been overtaken by events. Pointing out that there were other prayers in the application like the prayer for leave for the firm of M/s C.K Kipkosgei Law Advocates to be granted leave to come on

record for the *ex parte* applicant and the prayer for substitution of the 1st *ex parte* applicant, Isaac Kibor Chelawa-deceased with his son, Peter Kiplagat Kibor, counsel for the applicant urged the court to grant them those orders as they had not been overtaken by events.

Analysis and determination

6. I have read and considered the circumstances leading to filing of the application, particularly the desire to grant an opportunity to the estate of the 1st *ex parte* applicant to participate in the execution proceedings, through his son, Peter Kiplagat Kibor and I find the sole issue for determination to be whether the applicant has made up a case for being granted the orders that have not been overtaken by events, namely prayers (b), (e), (f), and (g).
7. As pointed out herein above, the applicant desires to be joined to these proceedings as a representative of his deceased father's estate for the purpose of fulfilling the legal obligations owed to the estate pursuant to the judgment

and decree of this court issued against the *ex parte* applicants in this suit, who included his father.

8. In the affidavit sworn in support of the application, there is an apparent error on the affidavit. The deponent has introduced himself as Peter Kiplagat Kibor but signed the application as Paul Kiplagat Kibor. Without any evidence as to whether the names in the affidavit refer to one and the same person, the affidavit is incapable of being relied on in support of the application. Secondly, the applicant has annexed an application he has filed in court for grant of letters of administration *ad litem*. He has however not given any proof that he has been appointed an administrator of the estate of his deceased father either for the purpose of representing the estate in the instant application or in any other dealing concerning the estate.

9. It is trite law that only a person with letters of administration, either full or limited, can represent the estate

of a deceased person. The applicant being not a legal representative of the estate of his father lacks capacity to institute and prosecute the instant application.

10. For the reason that the applicant lacks capacity to institute and prosecute the application, I find the instant application to be ill advised and I dismiss it with no orders as to costs as it was undefended.
11. Orders accordingly.

Dated, signed and delivered virtually at Busia this 5th day of March, 2026 in the absence of the parties.

L. N. WAITHAKA
JUDGE

Court Assistant; Tracy