

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. E017 OF 2022
IN THE MATTER OF THE ESTATE OF THE LATE KIPRONO
ARAP KALYA (DECEASED)

DANIEL KIPKURUI1ST
PETITIONER/RESPONDENT

ALFRED KIPROTICH KOROS2ND
PETITIONER/RESPONDENT

RECHO CHEPKEMOI LANGAT ...3RD
PETITIONER/RESPONDENT

VERSUS

JOHN KIPROTICH RONO1ST
OBJECTOR/APPLICANT

CAROLINE CHEPKURUI2ND
OBJECTOR/APPLICANT

GEOFFREY CHEPKWONY3RD
OBJECTOR/APPLICANT

RULING

1. The Objectors/Applicants, namely **John Kiprotich Rono**, **Caroline Chepkurui**, and **Geoffrey Chepkwony**, filed a Chamber Summons dated 23rd September 2025 under Sections 68(1), 69(2) of the Law of Succession Act (Cap 160) and Rules 17(2), 59, and 73 of the Probate and Administration Rules. The substantive prayers sought are that;

a) Spent.

b) Spent.

c) Spent.

d) Spent.

e) This Honourable Court be pleased to grant leave to the applicants to lodge their objection out of time.

2. Upon perusal of the record, it is evident that prayers 1, 2, 3, and 4 have already been overtaken by events and are therefore spent. The only live issue before this Court is whether leave should be granted to lodge an objection out of time.

2. The Applicants contend that they only became aware of the Kericho succession cause on 28th November 2023 when they were served with court orders dated 16th November 2023. They argue that they cannot be penalized for delay occasioned by lack of notice and urge the Court to lean towards inclusivity and fairness in succession matters. They invoke constitutional principles under Article 27 (equality) and Article 50 (right to be heard).

3. The Petitioners/Respondents oppose the application, arguing that the matter is res judicata, pointing to a prior application dated 4th November 2023. They contend that the Applicants are merely seeking to delay distribution of the estate and that the administrators already include one of the objectors, thereby ensuring representation of the wider family.

4. Rule 17(2) of the Probate and Administration Rules empowers the Court to extend time for filing objections where sufficient cause is shown. Section 76 of the Law of Succession Act provides for revocation of grants obtained fraudulently, by concealment of

material facts, or without proper consent. The doctrine of res judicata under Section 7 of the Civil Procedure Act bars re-litigation of matters already heard and determined. In ***Uhuru Highway Development Ltd v Central Bank of Kenya [1999] eKLR***, the Court of Appeal emphasized that courts should not issue orders in vain or entertain repetitive litigation. Similarly, In ***Re Estate of Julius Ndubi Javan (Deceased) [2018] eKLR***, the Court cautioned that objections must be filed promptly to avoid unnecessary delay in administration of estates. The Supreme Court in ***Railway Corporation v Nyangilo Ochieng [2019] eKLR*** underscored that courts must balance the right to be heard with the need for finality in litigation.

5. The Applicants have explained their delay, but the Court notes that they were aware of succession proceedings earlier through the Nakuru Succession cause. They have already participated in related litigation, including revocation proceedings in Nakuru CMCC court, and cannot convincingly claim ignorance of the Kericho succession cause. The doctrine of finality in litigation requires that succession causes progress without undue delay. The estate has remained in contest for years, and further objections at this stage would prejudice beneficiaries who are entitled to closure. The Court must guard against abuse of process. The Applicants have not demonstrated sufficient cause under Rule 17(2). Their delay appears deliberate, aimed at stalling the distribution. The administrators already included one of the objectors, ensuring representation. The Court is not

persuaded that justice requires reopening the process. As the Court of Appeal observed in ***Re Estate of G.K.K (Deceased) [2017] eKLR***, succession proceedings must be conducted in a manner that ensures timely resolution, and objections filed late without good cause undermine the orderly administration of estates.

6.I find that the Applicants have failed to demonstrate sufficient cause to warrant extension of time. The prayer for leave to lodge an objection out of time is therefore declined.

7. Consequently, the application dated 23rd September 2023 is dismissed in its entirety with no orders as to costs.

**Dated, signed and delivered at Kericho this 19th day
of February, 2026.**

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**J. K. SERGON
JUDGE**

In the Presence of:-

C/Assistant - Rutoh

Kibet for 1-3rd petitioners