

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
SUCCESSION CAUSE NO. 311 OF 2015
IN THE MATTER OF THE ESTATE OF THE LATE SARAH
CHERONO CHESIMET (DECEASED)

**CAROLINE CHELANGAT SINEI (Legal representative
of the Estate of the Late**

RICHARD KIPLANGAT CHESIMET.....1ST

APPLICANT

ANN CHEBET CHESIMET.....2ND

APPLICANT

NANCY KOECH.....3RD

APPLICANT

VERSUS

ROSEMARY CHELANGAT SINEI.....1ST

PETITIONER

NICHOLAS KIPROTICH LANGAT.....2ND

PETITIONER

JUDGMENT

1. The subject matter of this Judgment is the Summons for Confirmation of Grant dated 1st February, 2022 and the subsequent Affidavits of Protest. The main issue in dispute is the mode of distribution. The competing parties were invited to file their respective modes of distribution and written submissions.

2. Carolyne Chelang'at Sinei (representing the Estate of Richard Kiplangat Sinei), the 1st Protestor filed her proposed mode of distribution dated 9th August, 2021 while Ann

Chebet Chesimet, the 2nd Protestor filed her proposed mode of distribution dated 18th November, 2025. Nancy Koech, the 3rd Protestor filed her preferred mode of distribution dated 28th July, 2023.

3. It is not in dispute that Sarah Cherono Chesimet, deceased was survived by the following dependants. **Rosemary Sinei, Mary Chelangat Tegek, Betty Tegek and Caroline Sinei.** The assets of the estate are listed as follows:-

(i) Kericho/Chesinende/S.S./244

(ii) Kericho/Chemagel/2996

(iii) Kericho/Chemagel/2997

(iv) Kericho/Chemagel/2998

(v) Shares with Kenya Rural Multipurpose Cooperative Society.

(vi) Shares with Sinendet Tea Multipurpose Cooperative Society

(vii) Shares with KTDA Farmers Company Ltd

(viii) Shares with Kapkatet Tea Factory.

(ix) Shares with Mogogosiek Tea Company Ltd

4. I have considered the rival proposed mode of distribution. It is the submission of the 1st Protestor that the deceased during her lifetime subdivided her parcel of land known as

LR. ***Kericho/Chesinende/S.S./244***, declared her wishes and subdivided her properties to her children as follows:-

- (a) Rosemary Sinei16 Acres***
- (b) Mary Chelangat Tegek8 Acres***
- (c) Betty Tegek8 Acres***
- (d) Richard Sinei.....19.5 Acres***

5. It is the averment of the 1st Protestor that after her demise, Richard Sinei (deceased) called a Surveyor who surveyed the Estate in the presence of the other beneficiaries who had been allocated a share of the same and that they then proceeded to occupy their respective portions upto date.

6. Accordingly, the 1st Protestor urged this Court to find that the deceased distributed her estate prior to her death and therefore the Court should be guided by Section 42 (a) of the Law of Succession Act. It is said that the deceased subdivided her properties in the presence of the elders and the children. The beneficiaries are said to have moved to occupy and did substantive developments and some have even sold their shares to third parties.

7. The 1st Protestor stated that the proposed mode of distribution by the 2nd and 3rd Protestors are highly skewed and not in tune with the wishes of the deceased.

8. On her part, the 2nd Protestor proposed for the estate to be distributed as follows:-

PROPERTY	BENEFICIARY	SHARE
KERICHO/ CHESINENDE S.S./244	(Estate of Edwin Sinei) Rosemary Chelangat Sinei – (To hold in trust for herself and for the beneficiaries of the Estate of Edwin Sinei (Deceased	13.5 Acres
	(Estate of Nelson Tegek) a) Nicholas Kiprotich Tegek (To hold in trust for himself and for the beneficiaries of the estate of Mary Tegek (Deceased) b) Betty Tegek (To hold in trust for herself and her children)	a)6.75 Acres b)6.75 Acres Total 13.5 Acres
	(Estate of Richard Sinei) Caroline Chelangat Sinei (To hold in trust for herself and the beneficiaries of the estate of Richard Sinei)	13.5 Acres

	<p>Ann Chesimet (To hold in trust for herself, Morgan Mogeni, Purity Kerubo and Gladys Chepkemoi) (This covers the share of three daughters namely Ann Chesimet, Rose Chepkemoi (Deceased) (her beneficiaries listed above), and the estate of Edna Chepkirui (Deceased) (The beneficiary listed above)</p>	13.5 Acres
KERICHO/CHEMAGEL/2996	(Estate of Edwin Sinei) Rosemary Sinei (To hold in trust for herself and the beneficiaries of the Estate of Edwin Sinei)	0.91 Acres-Absolute
KERICHO/CHEMAGEL/2997	Ann Chebe Chesimet	0.49 Acres-Absolute
KERICHO/CHEMAGEL/2998	Nicholas Tegek (To hold in trust for himself and for the beneficiaries of the estate of Mary Tegek (Deceased) (Second household of Nelson Tegek)	0.91 Acres
Shares held at Kericho Rural Multi Purpose Cooperative Society Mau Tea Estate	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek	

	4. Rosemary Chelangat Sinei	
Shares held at Sinendet Tea Multi Purpose Cooperative Society	To be distributed in four equal portions among the following beneficiaries: 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	
Shares held at KTDA Farmers Company Limited	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	
Shares held at Kapkatet Tea Factory	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty	

	Tegek 4. Rosemary Chelangat	
Shares held at Mogogosiek Tea Factory Company Limited	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	

9. It is the submission of the 2nd Protestor that her proposed mode of distribution is fair and equitable since the deceased died intestate and did not distribute her estate *intervivos*. The 2nd Protestor pointed out that the mode of distribution proposed by the 1st Protestor and the Respondents are unfair and self-serving as they exclude several rightful beneficiaries.

10. After considering the rival submissions and averments, it is clear that two issues have arisen for determination:-

(i) Whether the deceased distributed her properties *intervivos*.

(ii) What assets are available for distribution and how should they be distributed.

11. On the 1st issue, I have already considered the respective positions taken by the parties. The 1st Protestor heavily relied on the Chief's letter dated 28th January, 2006 and the minutes of 23rd April, 2006. It is not in dispute that the deceased died on 28th August, 2003 before the alleged distribution. The 1st Protestor therefore failed to tender cogent evidence to establish her assertion that the deceased distributed her estate *intervivos*.

12. As of now, it is clear that all the parcels of land forming the deceased's estate remain registered in the name of the deceased. It is the finding of this Court that the alleged distribution fails the legal threshold of a valid gift ***Inter vivos***

13. The conclusion of this Court is that the deceased died intestate and without distributing her properties during her lifetime.

14. On the second issue as to what assets are available for distribution and as to how the distribution should look like. It

is clear from the evidence tendered that the following are the assets of the estate.

- (a) KERICHO/CHESINENDE/S.S/244 (Approximately 54.1 Acres)**
- (b) KERICHO/CHEMAGEL/2996 (Approximately 0.91 Acres)**
- (c) KERICHO/CHEMAGEL/2997 (Approximately 0.49 Acres)**
- (d) KERICHO/CHEMAGEL/2998(Aproximately 3.48 Acres)**
- (e) Shares held at Kericho Rural Multi-purpose Cooperative society (Mau Tea Estate)**
- (f) Shares held at Sinendet Tea Multipurpose Cooperative Society**
- (g) Shares held at KTDA Farmers Company Limited**
- (h) Share held at Kapkatet Tea Factory.**
- (i)Shares held at Mogogosiek Tea Factory Company Limited.**

15. Having considered the proposed modes of distribution by the 1st Protestor and the Petitioners, it is clear that their proposals fall short of the legal threshold required of equality among the children of the deceased subject to lawful considerations such as representations of the children by their own households. This Court is convinced that the

mode of distribution proposed by the 2nd Protestor appears to be fair and reasonable. The 2nd Protestor's proposal recognizes each surviving beneficiary of the deceased and allocates the estate along those lines.

16. It also ensures that the children of the deceased inherit through their respective estates. This proposed mode of distribution avoids unjust enrichment. It is also apparent that the 2nd Protestor's proposal accommodates vulnerable dependants which was overlooked by the 1st Protestor's proposal.

17. In the end, the grant is confirmed and distribution of the estate be done as proposed by the 2nd Protestor as follows:-

PROPERTY	BENEFICIARY	SHARE
KERICHO/ CHESINENDE S.S./244	(Estate of Edwin Sinei) Rosemary Chelangat Sinei - (To hold in trust for herself and for the beneficiaries of the Estate of Edwin Sinei (Deceased)	13.5 Acres
	(Estate of Nelson Tegek) a) Nicholas Kiprotich Tegek (To hold in trust for himself and for the beneficiaries of the estate of Mary Tegek (Deceased)	a)6.75 Acres

	b) Betty Tegek (To hold in trust for herself and her children)	b)6.75 Acres Total 13.5 Acres
	(Estate of Richard Sinei) Caroline Chelangat Sinei (To hold in trust for herself and the beneficiaries of the estate of Richard Sinei)	13.5 Acres
	Ann Chesimet (To hold in trust for herself, Morgan Mogeni, Purity Kerubo and Gladys Chepkemoi) (This covers the share of three daughters namely Ann Chesimet, Rose Chepkemoi (Deceased) (her beneficiaries listed above), and the estate of Edna Chepkirui (Deceased) (The beneficiary listed above)	13.5 Acres
KERICHO/CHEMAGEL/2996	(Estate of Edwin Sinei) Rosemary Sinei (To hold in trust for herself and the beneficiaries of the Estate of Edwin Sinei)	0.91 Acres-Absolute
KERICHO/CHEMAGEL/2997	Ann Chebe Chesimet	0.49 Acres-Absolute
KERICHO/CHEMAGEL/2998	Nicholas Tegek (To hold in trust for himself and for the beneficiaries of the estate of Mary Tegek	0.91 Acres

	(Deceased) (Second household of Nelson Tegek)	
Shares held at Kericho Rural Multi Purpose Cooperative Society Mau Tea Estate	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat Sinei	
Shares held at Sinendet Tea Multi Purpose Cooperative Society	To be distributed in four equal portions among the following beneficiaries: 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	
Shares held at KTDA Farmers Company Limited	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek	

	4. Rosemary Chelangat	
Shares held at Kapkatet Tea Factory	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	
Shares held at Mogogosiek Tea Factory Company Limited	To be distributed in four equal portions among the following beneficiaries:- 1. Anne Chebet Chesimet 2. Caroine Chelangat Sinei 3. Nicholas Tegek, Julius Tegek, and Betty Tegek 4. Rosemary Chelangat	

18. This being a family dispute, each party should meet his or her own costs.

Delivered, signed and dated at Kericho this 12th day of March, 2026.

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**J.K. SERGON
JUDGE**

In the Presence of:-

C/Assistant - Rutoh

Kipkorir for 2nd Protestor

Miss Cheptoo holding Kirui for 1st Protestor

No Appearance for the Petitioners

