

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE NO. E105 OF 2010
IN THE MATTER OF THE MATTER OF THE ESTATE OF THE LATE
KIBET SANG (DECEASED)

PAULINE JEPKEMBOI KIBET 1ST
PETITIONER
ELIZABETH JEPCHIRCHIR SANG 2ND PETITIONER
JULIUS KIPKEMBOI KIBET 3RD PETITIONER

VERSUS

RAEL KIBET 1ST OBJECTOR
ROSE KIBET 2ND OBJECTOR
SYLVESTER KIPLAGAT KIBET 3RD
OBJECTOR
VALENTINE JEPKOGEI KIBET 4TH
OBJECTOR
EUNICE JEPKOECH KIBET 5TH OBJECTOR

Coram: Before Justice R. Nyakundi
M/s Songok & Co. Advocates
M/s Morgan Omusundi & Co. Advocates
M/s Mathai Maina & Co. Advocates

RULING

1. There are three applications before this Court pending determination. The first application is dated 11th March 2025, the second is dated 18th

December 2025, and the third is dated 27th February 2026. I shall proceed to set out a summary of each application together with the responses filed thereto, before making a consolidated determination on all three. Given the protracted history of this succession cause and the nature of the issues now raised, it is necessary that I also set out the litigation history of this matter so as to provide the proper context within which the present applications fall to be determined and to ensure that this ruling is self-contained as a complete record of the judicial journey of this estate.

The Application dated 11th March, 2025

2. The application is expressed under the provisions of section 40, 49 of the Law of Succession Act, and Rule 73 of the Probate and Administration Rules wherein the applicant seeks orders that:
 - a. *That the Grant of letters of administration intestate issued to Pauline Chepkemboi Kibet, Elizabeth Jepchirchir Sang, Julius Kipkemboi Kibet and Sylvester Kiplagat Kibet on the 21st September, 2022 and confirmed on the 17th November, 2022 and amended by the Ruling dated 11th December, 2023 be reinstated.*
 - b. *That the orders of this Court issued on the 15th November, 2024, the mode of distribution set out therein and all consequential orders therefrom be set aside and the distribution of the estate of the deceased among beneficiaries be implemented based on the Ruling dated 11th December, 2023 and the Certificate of Confirmation therefrom.*
 - c. *That the costs of the application be in the cause.*
3. The application is anchored on various grounds and an affidavit sworn by Abraham Kibet who made various averments, some of which are captured as hereunder verbatim:

a. That a few beneficiaries, being dissatisfied with the distribution of the estate in equal proportions, applied for a review against the Ruling dated 11th December, 2023. In it the applicants through the 2nd Petitioners submissions on distribution dated 29th September 2024, proposed the following changes:

i. That William Kibet to be allocated a portion of Kaptagat / Kaptagat Block 1 (Losirwa)/116 on account of his residence at this farm. Unfortunately, this is inconsistent with Nandi/ Keiyo customary law which vests the home upon the youngest son, to wit, Sylvester Kibet. I am aware that Sylvester resides at his home and has undertaken massive developments. Further, there is a need to ensure the estate is not fragmented to the extent of it not being agriculturally viable.

ii. Whereas all the beneficiaries were aware and had no problem with the purchase of 10 acres by Victor Yator, the 2nd Petitioner proposed an addition of 9 acres to Victor Yator. The sale of the 9 acres was carried out on the 4th of June 2011, which is 2 years after the death of our late father. The sale was carried out without the consent of the beneficiaries nor of this Court as required by law. This transaction offends the mandatory provision of Section 82 b) (ii) of the law of succession Act.

b. That the certificate of confirmation of Grant dated 15th November 2024 is manifestly erroneous for the following reasons:

- i. *It vests upon Julius Kibet the parcels of land known as Plateau/Plateau Block 2/ 84 and Plateau/ Plateau Block 2/ 85 measuring approximately 17.4 acres each and, hence a disproportionate allocation of 35 acres when all the other beneficiaries are entitled to 16 acres or thereabouts.*
- ii. *It vests on Sylvester Kibet, Valentine Kibet and I only 12 acres each, a significantly smaller share of the estate compared to the other beneficiaries. I am of the firm position that the law (Section 40) contemplates equal distribution, and a deviation is only allowed in exceptional cases, none of which has been exhibited in the cause before Court.*
- iii. It irregularly includes grandson, Brian Kipleting (son of Julius Kibet) who is awarded one acre in Plateau/ Plateau Block 2 (Uasin-Gishu)/ 85. The grandson can only inherit from his father's share and no more.
- iv. The widows, the 1st and the 2nd petitioners were each awarded 20 acres contrary to the mandatory provision of section 35 as read with section 37 of the Law of Succession Act which limit their share to life interest in the whole residue of the net intestate estate.
- v. The 2nd Petitioner being keen to have only her children (3rd house,) in plateau land (Plateau/Plateau Block 2 (Uasin-Gishu)/ 60-91), and 3rd Petitioner to secure an exclusive occupation of the entire Plateau/ Plateau Block 2 (Uasin-Gishu)/ 84 and Plateau/ Plateau Block 2 (Uasin-Gishu)/ 85.

- vi. It has moved some beneficiaries from their residential locations where they have settled and erected permanent and semi-permanent structures and settled on them elsewhere. For instance, **STEPHEN KIBET** has been relocated from the portion he lives on and has buried his wife. **TECLA KIBET** and **EUNICE KIBET** have been relocated from their ancestral land at **KAPTAGAT/KAPTAGAT BLOCK 1 (LOSIRWA) 116** to **KIPSINENDE/KIPSINENDE BLOCK 8 (LAMAON) 54**.
- vii. It awards **GIDEON KIMURGOR KIBET** the property known as **KIPSINENDE/KIPSINENDE BLOCK 8 (LAMAON)1** measuring 17.8 acres on grounds that he is the only one residing thereon, yet I also reside on the said property and have made developments thereon as reflected in the survey report.
- viii. In view of the foregoing, the opinion of both the 2nd and 3rd Petitioners is now at cross purpose with the beneficiaries of the estate, who they ironically purport to represent.
- ix. There are several discrepancies between the acreage of each parcel and the acreage distributed from each parcel within the certificate of confirmation of grant including but not limited to the following:
- a. PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/84 measuring 17.4 acres, where Plateau Block 2/84 was omitted in the final schedule (the order and generating the certificate of confirmation, has fraudulently awarded himself this portion, even when that was not in ruling).

- b. **PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/85** measuring 17.54 acres, where 16.4 acres were distributed leaving 1.14 acres unaccounted for.
 - c. **PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/88** measuring 21.15 acres, where 20 acres were distributed leaving 1.15 acres unaccounted for.
 - d. **PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/91** measuring 16.8 acres, where 16 acres was distributed leaving 0.8 acres unaccounted for.
 - e. **PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/90** measuring 5.31 acres, where 4.4 acres were distributed leaving 0.81 acres unaccounted for.
 - f. **PLATEAU/PLATEAU EAST BLOCK 2(UASIN GISHU)/62** measuring 6.3 acres, where 4 acres was distributed leaving 2.3 acres unaccounted for.
 - g. **KIPSINENDE/KIPSINENDE BLOCK 8 (LAMAON) 1** measuring 17.8 acres, where 13.7 acres were distributed leaving 4.1 acres unaccounted for.
 - h. Other parcels with unaccounted acreage:
- c. That on the initial distribution of grant, the estate appeared to be distributed equally with each beneficiary being apportioned about 15-16 acres of land per beneficiary as appearing on the distribution of 11th December 2023. It is the desire of the beneficiaries that we revert back to amended certificate of confirmation of grant dated 11th of December 2023, subject to;

- i. The share of the widows being limited to life interest as proposed hereinabove.
 - ii. Such proposal as may be made by the surveyor during the sub-division process.
 - iii. A family cemetery measuring 2 acres or thereabouts be reserved on the parcel of land known Kaptagat/ Kaptagat Block 1(Losirwa)/116.
 - iv. A cemetery for all the houses measuring 2 acres or thereabouts be reserved hereinabove proposed creation of a family cemetery where everyone shall have unlimited access.
 - d. That the amended certificate of confirmation of grant does not provide for the late **SALLY JERONO SANG** who was the 1st Wife of the deceased yet provisions were made for the 2nd and 3rd wives with each getting awarded 20 acres of land.
4. In response to the application, the 2nd Petitioner filed a Replying Affidavit, filed on 2nd May 2025, sworn by **Elizabeth Jepchirchir Sang**, in which she deposed that the application was fatally defective, frivolous, vexatious, scandalous and an abuse of the Court process deserving dismissal in limine. She further deposed that the application had been filed by a stranger in law in non-compliance with Order 9 Rules 7 and 9 of the Civil Procedure Rules 2010, and that similar applications had previously been heard and determined by the Court on 22nd March 2023 and 30th January 2025, rendering the instant application res judicata. She additionally averred that pursuant to Article 164(3) of the Constitution, jurisdiction lay with the Court of Appeal, and that the application

amounted to an appeal seeking to set aside the grant confirmed on 11th December 2024.

5. She further deposed that the application contained blatant falsehoods, including the allegation that Stephen Kibet had been displaced from Kaptagat/Kaptagat Block 1 (Losirwa)/116, and that the allocation of 17.4 acres to Julius Kipkemboi Bett in Plateau/Plateau (UG) Farm No. 84 arose from the mediation agreement dated 12th March 2020 adopted as a Court order before Justice S.M. Githinji, and not from the impugned grant. She contended that the application was made in bad faith, having been filed on the very same day the Court delivered its ruling on 11th March 2025, and that the Applicant was working in cahoots with Sylvester Kibet to frustrate the transmission of the estate. She concluded that the application offended Rule 9 of the Oaths and Statutory Declarations Rules and ought to be struck out.

The application dated 18th December, 2025

6. The 2nd Petitioner filed the said application expressed under the provisions of section 47, 83(f)(q)(i) of the Law of Succession Act in which she sought orders:
 - a. *That the Honourable Court be pleased to remove and discharge PAULINE JEPKEMBOI KIBET and SYLVESTER KIPLAGAT KIBET as Administrators for abdicating their duties provided for under section 83 of the Law of Succession and be replaced by GRACE KIBET and WILLIAM KIPROTICH BETT as per section 29 of the Law of Succession Act.*
 - b. *That upon removal of PAULINE JEPKEMBOI KIBET and SYLVESTER KIPLAGAT KIBET and upon appointment of GRACE KIBET and WILLIAM KIPROTICH BETT as Co-Administrators, the Honourable Court do order the Administrators to forthwith*

sign L.R Form No. 39 and 42 to enable transmission of the Grant that was confirmed on the 15th November, 2025.

c. Costs of the application be provided for.

- 7.** The application is anchored on grounds that pursuant to the Ruling delivered on 15th November, 2024, the grant of confirmation was confirmed and the shares of the beneficiaries became ascertained. That in the said Ruling the Court also directed that in the event that the Administrators abdicate their duties, the DR shall cause the County Surveyor to develop a survey plan together with a mutation reflecting the model of distribution in the Certificate of Grant to be generated on the entire immovable estate.
- 8.** The applicant further deposed that the two Administrators have declined to append their signatures to enable transmission of the Estate to the beneficiaries of Kibet Sang.
- 9.** In response to the 2nd Petitioner's application, **Emmanuel Kemei**, a beneficiary and interested party in the matter, swore a Replying Affidavit on 10th March 2026 in which he deposed that the allegations made by the 2nd Petitioner were misconceived, misleading, malicious and an abuse of the Court process deserving dismissal with costs. He deposed that it was not true that Pauline Jepkemboi Kibet had refused or declined to sign the transmission documents without cause, asserting that they had instead raised genuine concerns regarding the fairness, accuracy and transparency of the survey and distribution process being pursued by the Applicant.
- 10.** He further deposed that the alleged survey exercise purportedly completed by the 2nd Petitioner was conducted unilaterally and without consultation or involvement of all beneficiaries, contrary to the principles of equity and fairness. He averred that the 2nd Petitioner could not compel the Deputy Registrar to sign the transmission documents on behalf of the

Administrators when serious disputes existed concerning the fairness of the distribution and the accuracy of the survey, and that doing so would risk disinherit some houses and beneficiaries. He also deposed that although the 2nd Petitioner proposed that Grace Kibet replace him as Administrator, Grace Kibet was compromised and aligned with the Applicant's position and could not fairly and independently represent the interests of House B.

11. He concluded by deposing that the application was premature, ill-motivated and aimed at circumventing the due process of administration and distribution of the estate. He urged the Court to dismiss the 2nd Petitioner's application in its entirety, direct that the contested issues regarding the survey and distribution be heard and determined before any execution of transmission forms, and grant such further orders as the Court may deem fit and just in the circumstances.

The application dated 27th February, 2026

12. The application is expressed under the provisions of Rule 47, 83(f), (g), (i) of the Law of Succession Act and Rule 73 of the Probate and Administration Rules. The applicants seek orders as follows:
 - a. *That the Ruling scheduled for 3rd March, 2026 be arrested pending the hearing and determination of this application.*
 - b. *The certificate of confirmation of grant dated 15th November, 2024 be amended to remove all the properties that are not in the name of the deceased and the Administrators be directed to collect the estate and pursue all properties that are yet to be register in the name of the deceased.*
 - c. *This Honourable Court be pleased to remove the discharge ELIZABETH JEPCHIRCHIR SANG and JULIUS KIPKEMBOI KIBET as Administrators for abdicating their duties provided for*

under Section 83 of the Law of Succession Act and be replaced by other beneficiaries as per section 29 of the Law of Succession Act.

d. Costs of this application be provided for.

13. The application is anchored on various grounds and an affidavit sworn by Valentine Jepkogei Kibet. Some of the grounds include:

- a. That the honourable Court delivered a ruling dated 15th November, 2024 on how the net estate of the late KIBET SANG was to be distributed to all the beneficiaries to this estate.
- b. Pursuant to the ruling of 15th November, 2024 the confirmation of grant was confirmed and shares of the beneficiaries ascertained. A grant was drawn where beneficiaries contested the said Grant due to the way it was drawn.
- c. That Certificate of confirmation of grant does not match what was directed in the Ruling dated 15th November, 2024 (the son of Julius Kipkemboi Kibet by the name Brian Kipleting was allocated 1 Acre in parcel No. 84 in the Ruling while in the Grant the entire 17 acres was allocated to Julius Kipkemboi Kibet).
- d. The Certificate of confirmation of Grant comprises properties that are not registered in the name of the deceased. The two Administrators ELIZABETH JEPCHIRCHIR SANG and JULIUS KIPKEMBOI KIBET have violated their mandate.
- e. That the two Administrators ELIZABETH JEPCHIRCHIR SANG and JULIUS KIPKEMBOI KIBET having titles in their names measuring 22 and 34 acres respectively but holding in trust for the family have since declined to transfer back the parcels in the name of the deceased as a procedure of succession but

instead have awarded themselves the whole portions in the Grant.

- 14.** In response to the 4th and 5th Objectors' application, **Emmanuel Kemei**, a beneficiary and interested party in the matter, swore a replying affidavit and deposed that he supported the orders sought in the said application, particularly the prayers seeking to halt the delivery of the ruling scheduled for 3rd March 2026, to amend the certificate of confirmation of grant dated 15th November 2024, and to remove Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet as Administrators. He further deposed that the certificate of confirmation of grant dated 15th November 2024 contained several properties not registered in the name of the deceased and which therefore did not legally form part of the estate available for distribution, and that unless corrected, the estate stood to be distributed irregularly.
- 15.** He further deposed that the certificate of confirmation of grant extracted after the ruling of 15th November 2024 contradicted the Court's directions contained in that ruling, and that the discrepancy was prejudicial to him and other beneficiaries and could only be rectified by amending the certificate in accordance with the ruling. He additionally averred that the Administrators, Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet, had been disposing of portions of the estate without proper consultation with or consent of the beneficiaries, had failed to render a true and accurate account of the estate, and had neglected to collect all estate assets and pursue registration of properties that ought to be in the name of the deceased.
- 16.** He concluded by deposing that it was contradictory and unjust for the said Administrators to seek the removal of other Administrators while they themselves had failed to properly discharge their statutory duties, and that unless the issues raised in the application were urgently addressed,

the estate risked being wasted and irregularly distributed, causing irreparable prejudice to beneficiaries such as himself. He urged the Court to grant the orders sought in the application in the interest of justice and proper administration of the estate.

- 17.** In further response to the application, **Julius Kipkemboi Kibet** swore a replying affidavit on 11th March, 2026 deposing that the application was fundamentally defective, raised no substantive or triable issues, and was frivolous, vexatious and scandalous, amounting to an abuse of the Court process deserving dismissal at the earliest opportunity. He deposed that the application seeking amendment of the Certificate of Grant issued on 15th November 2024 was res judicata, the Court having pronounced itself on the same subject matter on several occasions, most notably in the Ruling delivered on 11th March 2025, and that the instant application was merely an afterthought brought by the 4th and 5th Objectors as a reaction to the application dated 18th December 2025 seeking their removal as Administrators.
- 18.** He deposed that he and the 2nd Petitioner had been working tirelessly to ensure the estate was distributed, had undertaken survey work and prepared LR Forms 39 and 42 for execution, but that the 1st and 4th Petitioners had declined to execute them. He further averred that steps had been taken to ascertain whether KENHA had any interest in the subject land parcels, and it had since been established that there was no parcel of land belonging to KENHA, as confirmed by a report by the County Land Registrar and County Land Surveyor.
- 19.** He additionally deposed that the parcel Plateau/Plateau Block 2 (UG) 84 belonged solely to him and did not form part of the deceased's estate, as substantiated by Family Minutes dated 21st February 2010, the Partial Mediation Agreement dated 29th February 2020 adopted as a Court order, the testimony of PW2, and the Ruling of 15th November 2024. He further

deposed that Plateau/Plateau Block 2 (UG) 85 had been settled upon him by his late father during his lifetime and registered in his name prior to the deceased's demise, and was therefore not subject to these succession proceedings. He concluded by affirming that the 1st house had been apportioned its equitable share just like the other households, and that the Amended Certificate of Confirmation of Grant issued on 15th November 2024 correctly reflected the final confirmed distribution with no error apparent on the face of the record.

20. Julius Kipkemboi Kibet, the 3rd Petitioner and one of the Administrators, also swore a Replying Affidavit on 11th March 2026 deposing that the application was fundamentally defective, raised no substantive or triable issues, and was frivolous, vexatious and scandalous, amounting to an abuse of the Court process deserving dismissal at the earliest opportunity. He further deposed that the application seeking amendment of the Certificate of Grant issued on 15th November 2024 was res judicata, the Court having pronounced itself on the same subject matter on several occasions, most notably in the Ruling of 11th March 2025, and that the instant application was merely an afterthought brought by the 4th and 5th Objectors as a reaction to the application dated 18th December 2025 seeking their removal as Administrators.

21. He also deposed that he and the 2nd Petitioner had been working tirelessly to ensure distribution of the estate, had undertaken survey work and prepared LR Forms 39 and 42 for execution, but that the 1st and 4th Petitioners had declined to execute them. He further averred that steps had been taken to establish whether KENHA had any interest in the subject land parcels, and it had since been confirmed that no such parcel existed, as per a report by the County Land Registrar and County Land Surveyor. He additionally deposed that the parcel Plateau/Plateau Block 2 (UG) 84 belonged solely to him and did not form part of the deceased's

estate, substantiated by Family Minutes dated 21st February 2010, the Partial Mediation Agreement of 29th February 2020, the testimony of PW2, and the Ruling of 15th November 2024, while Plateau/Plateau Block 2 (UG) 85 had been settled upon him by his late father during his lifetime and registered in his name prior to the deceased's demise, and was therefore not subject to these succession proceedings.

Analysis and determination

22. As we ride on this latest trajectory, history will acquit me that all that was supposed to be done to pronounce myself within the Constitution and the law has been faithfully done within my ability and appreciation of the law. This is one estate which can be better described as protracted without the beef of the law but individual contestations as to the rights of inheritance. As I have walked with this family without really sounding theological and biblical, I kept wondering whether within their recognition of whichever creation they align their lives to, they may be aware about the proclamation in the bible on inheritance rights. What does that mean to us as human beings? That inheritance is not a creature of the Law of Succession Act drafted in 1981. It is as old as mankind himself. Just to mention but a few verses of inheritance not from the altar but from the resolute seat of justice. The inheritance rights as envisioned in the Bible covers both physical property, land and assets, spiritual promises focusing on generational legacy, family responsibility and divine covenant. The first of these prophetic books is in the book of Numbers 27:1-11. This is a crucial text where women are granted inheritance rights, establishing that inheritance should pass to the next of kin to preserve the family name and land. In the book of Joshua 15:16-19, it does demonstrate a daughter negotiating for water rights as part of her inheritance showing active participation in property rights.

23. I liken the deceased, Kibet Sang to the words in the book of Proverbs 13:22, as a good man who left an inheritance to his children's children. This verse does highlight what I refer to as generational planning for those who go before us. It is time for the children of Kibet Sang to take advantage of the wealth created by their father by carrying the inheritance and devolving the shares to themselves. The kind of estate left by their late father, is one which I can say is imperishable given that substantially it comprises Land. For purposes of this litigation, I have taken the liberty to walk the family through the memory lane as evidenced in this decision before I embark on a brief summation of the three current applications, with highlights of interlocking issues in the aforesaid applications.

Litigation History

- 24.** The estate of the late Kibet Sang has been before this Court since the year 2010, when the original petition for grant of letters of administration was filed. What follows is a proper account of the judicial journey of this succession cause since I took over the matter, set out not as a mere rehearsal of events already known to the parties, but as the necessary foundation upon which the determination of the applications now before this Court must rest, and as a record that any subsequent Court engaging with this file may read with complete understanding.
- 25.** The deceased died intestate, leaving behind a substantial estate comprising multiple parcels of agricultural land situated across different locations within Uasin Gishu and Elgeyo Marakwet Counties, urban commercial plots in various trading centres, agricultural machinery, and other movable assets including motor vehicles, tractors, trailers, and farm implements. He was survived by three houses in a polygamous family structure. The first house was that of the late Sally Sang, who

predeceased the deceased, leaving behind her children as the beneficiaries of that house. The second house is represented by the surviving widow Pauline Jepkemboi Kibet, and the third house by the surviving widow Elizabeth Jepchirchir Sang. The deceased was survived in total by twenty-three children from the three houses, making a combined unit count, inclusive of the two surviving widows, of twenty-five dependants for the purposes of Section 40 of the Law of Succession Act.

26. On 28th July 2022, this Court delivered judgment, setting out the legal and factual framework for distribution of the estate. The Court applied Section 40 of the Law of Succession Act, which governs the distribution of the estate of an intestate who died polygamous, dividing the estate among the houses according to the number of children in each house with each surviving widow counting as an additional unit. The Court found that the first house comprised eleven units, the second house eight units, and the third house six units. The Court further found that Emmanuel Kemei held Kaptagat/Lotonyok Block 3 (Ngelel-Tarit)/33 in trust for the estate and directed it be included in the distribution. The grant was to be drawn and confirmed subject to a survey by a mutually acceptable surveyor. A Certificate of Confirmation of Grant was duly issued on 17th November 2022.

27. That certificate did not take long before attracting challenges. The parties unanimously conceded that it contained rectifiable errors. Chief among those errors was the inadvertent omission of Immaculate Jerotich, a dependant of the deceased whose entitlement was undisputed. Several properties purchased from or gifted by the deceased during his lifetime had not been incorporated, and certain parcels together with all movable assets had been omitted. A survey was commissioned and the County Surveyor filed a comprehensive report dated 1st August 2023, which identified the structures and occupancies on each parcel of the estate and

provided the Court with factual clarity about established settlements that deserved protection in the interests of family stability.

- 28.** On 11th December 2023, this Court delivered a ruling, rectifying the Certificate of Confirmation of Grant. Immaculate Jerotich was included. The purchasers identified through the partial mediation settlement of 29th February 2020, including Simeon Chebon, Gene Masit, Victor Yator, Henry Sang and Salina Jepkorir Birgen were recognised and their portions directed to be incorporated into the grant in accordance with Section 93 of the Law of Succession Act. The movable assets were distributed per house. The Administrators were directed to file a report accounting for the distribution within six months.
- 29.** That ruling also proved impossible to implement in its entirety. Multiple applications followed it. The purchasers from the Tembelio/Elgeyo Border Block 10 (Kaptuktuk 'B') parcels who had been identified in the February 2020 partial mediation settlement, including James Chirchir Chebii, Julius Kipkemboi Kibii, Elizabeth Kandie, Luka Chebet, Ernest K. Olbara, John Kiptum and Augustine Mitei had been omitted. Victor Yator's allocation had been captured as ten acres when the mediation had established his entitlement at nineteen acres. William Kiprotich Bett, the first-born son of the late Sally Sang and a resident of Kaptagat/Kaptagat Block 1 (Losirwa) 116, the parcel where both his father and his mother are interred was being displaced by the December 2023 grant to a different parcel entirely. Gideon Kositany, son to the second wife, had established permanent residence on Kipsinende/Kipsinende Block 8 (Lamaon) 1, a fact confirmed by survey and by a Memorandum of Understanding dated 22nd April 2024 signed by the three Administrators.
- 30.** To gain first-hand understanding of these competing claims and the practical realities on the ground, this Court conducted a site visit to the intestate estate. The Court observed the family occupation of each parcel,

took note of established structures, cultural attachments and the existence of burial sites. Those observations materially informed the comprehensive review that followed.

31. On 15th November 2024, this Court delivered a further ruling, which constituted a comprehensive review of the distribution scheme. That ruling invoked the Court's review jurisdiction under Section 80 of the Civil Procedure Act, Rule 73 of the Probate and Administration Rules and Order 45 Rule 1 of the Civil Procedure Rules, recognising that implementation challenges and genuine omissions justified a fresh look. The ruling systematically addressed each contested parcel, protected the interests of all purchasers identified through the mediation process, retained William Kiprotich Bett at Kaptagat/Kaptagat Block 1 (Losirwa) 116 on grounds of cultural duty and filial connection to his parents' burial ground, allocated Gideon Kositany the parcel Kipsinende/Kipsinende Block 8 (Lamaon) 1 in recognition of his established occupation and the Administrators Memorandum of Understanding, corrected Victor Yator's allocation to nineteen acres, incorporated all outstanding purchasers, and distributed the movable assets per house in accordance with a detailed schedule. The ruling expressly noted that the Court was acting in accordance with Sections 38 and 40 of the Law of Succession Act and that no inter vivos or mortis causa gift had been established in respect of the disputed parcels. The Administrators were directed to execute all necessary transmission documents within sixty days. In the event of abdication of those duties, the Deputy Registrar was empowered to engage the County Surveyor to develop a survey plan and mutation for the entire immovable estate for direct registration in the names of the beneficiaries.

32. Three applications followed the November 2024 ruling. A Notice of Motion dated 4th December 2024 sought an injunction and stay of execution. An application dated 19th December 2024 sought leave to appeal to the Court

of Appeal. A review application dated 30th January 2025, filed by Tecla Kibet and Stephen Kibet, sought a review of the November 2024 ruling on grounds that the distribution unfairly disadvantaged the first house, displaced certain beneficiaries from established homes, failed to provide for the late Sally Jerono Sang, omitted certain movable properties, and did not capture the survey report.

- 33.** On 11th March 2025, this Court delivered a ruling determining all three applications. The Court found that leave to appeal should be denied because the applicants had failed to identify specific legal or factual errors that would merit serious judicial consideration at the Court of Appeal, their grievances being expressions of personal preference for particular parcels rather than identifiable legal errors. The application for stay of execution was dismissed as a consequence. The review application was dismissed on the concurrent grounds of procedural defect in representation and, substantively, on the ground that the November 2024 ruling disclosed no mistake or error apparent on the face of the record and that a Court cannot entertain a review of a judgment that has already itself been reviewed. The Court applied the doctrine of res judicata under Section 7 of the Civil Procedure Act. By order of the Court, the Certificate of Confirmation of Grant dated 15th November 2024 was directed to remain in force and to be implemented in its entirety.
- 34.** Even that direction did not yield much. A further application dated 17th February 2026 occasioned a procedural ruling in which the Court observed that the Administrators remained deadlocked, that parcels yet to be registered in the name of the deceased had found their way into the certificate, that the KENHA question remained unresolved at the administrative level, and that the Court's continued involvement through status conferences would not devolve any share to the beneficiaries. The Court invited the parties to file substantive submissions for a ruling to be

delivered on 3rd March 2026. It is the three applications that are now consolidated before this Court for that final determination.

- 35.** The three applications before this Court, read together with the responses and submissions filed in opposition, give rise to the following distinct issues for determination.
- 36.** In respect of the application dated 11th March 2025, the issues are whether the application is barred by the doctrine of res judicata having regard to the ruling of this Court delivered on 11th March 2025; and whether, if the application is entertained on its merits, there exists any mistake or error apparent on the face of the record or any other sufficient reason within the meaning of Section 80 of the Civil Procedure Act and Order 45 Rule 1 of the Civil Procedure Rules that would justify the reinstatement of the Certificate of Confirmation of Grant dated 11th December 2023 and the setting aside of the orders of this Court made on 15th November 2024.
- 37.** In respect of the application dated 18th December 2025, the issue is whether Pauline Jepkemboi Kibet and Sylvester Kiplagat Kibet have, by their refusal to execute the transmission instruments required by the operative certificate of confirmation of grant dated 15th November 2024, abdicated their duties as Administrators within the meaning of Section 83 of the Law of Succession Act so as to warrant their removal and replacement; and if so, what is the appropriate remedy.
- 38.** In respect of the application dated 27th February 2026, the issues are whether the amended certificate of confirmation of grant dated 15th November 2024 should be amended to excise properties not registered in the name of the deceased at the date of his death; whether Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet have abdicated their duties as Administrators within the meaning of Section 83 of the Law of Succession

Act so as to warrant their removal; and what implementation orders should issue to bring this succession cause to its final conclusion.

On the Application dated 11th March 2025

- 39.** I start with the first application. The 2nd Petitioner has raised an objection that Abraham Kibet, as the deponent, is a stranger in law who has come on record without compliance with Order 9 Rules 7 and 9 of the Civil Procedure Rules 2010. The Court notes from the survey report of 1st August 2023 that Abraham Kibet is identified as a son of the first wife, the late Sally Sang, and a resident of Kaptagat/Kaptagat Block 1 (Losirwa) 116. He is therefore an undoubted beneficiary of this estate. The Court takes note of the procedural irregularity concerning his coming on record but, being guided by Article 159(2)(d) of the Constitution which directs that justice shall be administered without undue regard to procedural technicalities, proceeds to the substance.
- 40.** The application seeks the reinstatement of the Certificate of Confirmation of Grant dated 11th December 2023 and the setting aside of the distribution confirmed on 15th November 2024 together with all consequential orders. These are precisely the reliefs that this Court considered and declined in its ruling of 11th March 2025, when the review application of Tecla Kibet and Stephen Kibet raising materially identical grounds concerning the alleged unfairness of the November 2024 distribution to the first house, the alleged displacement of beneficiaries from established residences, and the alleged failure to provide for the late Sally Sang was dismissed. The present application is, in substance, a repetition of those same grounds by a different first-house beneficiary.
- 41.** The doctrine of res judicata as codified in Section 7 of the Civil Procedure Act applies with full force. This Court elaborated extensively on that

doctrine in the March 2025 ruling, drawing on **Hoystead v Commissioner of Taxation [1925] AC 155** and **Henderson v Henderson (1843) 3 Hare 100**, and on the principle articulated by Lord Diplock LJ in 1964 CA 181, 197, that cause of action estoppel prevents a party from asserting or denying, as against the other party, the existence of a particular cause of action whose existence or non-existence has been determined by a Court of competent jurisdiction in previous litigation between the same parties. There is nothing in the present application that falls outside what was or could have been canvassed in the March 2025 applications. No new matter has been introduced. No error apparent on the face of the record has been identified. It should however be noted, for the sake of transparency, that this Court is separately and of its own motion exercising its review jurisdiction on the basis of new official evidence received from statutory officers after the March 2025 ruling, as set out fully below. That exercise is categorically distinct from the party-driven review sought by Abraham Kibet and is not a vindication of the grounds he advances. The doctrine of *res judicata* bars parties from relitigating distribution merits that have been settled. It does not prevent a Court from acting of its own motion on new official evidence revealing legal impediments that were not before it at the time of its previous orders.

42. In **National Bank of Kenya Ltd v Ndungu Njau [1997] eKLR**, the Court of Appeal held:

“A review may be granted whenever the Court considers that it is necessary to correct an apparent error or omission on the part of the Court. The error or omission must be self-evident and should not require an elaborate argument to be established... A review is not an appeal in disguise.”

- 43.** Having said that, let me address two specific grounds raised in the application so that no beneficiary can afterwards say they were left unheard. On the allegation that the widows were each awarded twenty acres as absolute proprietary shares in violation of Section 35 of the Law of Succession Act, this Court clarifies as follows. The life interest character of the allocations to the surviving widows, Pauline Jepkemboi Kibet and Elizabeth Jepchirchir Sang, attaches to their respective portions by operation of Section 35 of the Law of Succession Act and requires no amendment to the certificate itself to take effect. Any Administrator or Land Registrar proceeding to implement the certificate must do so on the understanding that the widows hold their allocations as life interests within the meaning of that section, and that upon the death or remarriage of each widow, her life interest shall thereupon determine by virtue of Section 35(5) of the Law of Succession Act, whereupon her allocated portion shall devolve among the children of her respective house in accordance with the applicable provisions of the Act.
- 44.** Considering the application dated 11th March 2025 in its entirety, it discloses no new matter, no error apparent on the face of the record, and no sufficient reason within the meaning of Order 45 Rule 1 of the Civil Procedure Rules and Section 80 of the Civil Procedure Act that would justify granting the reliefs sought by Abraham Kibet. The application is dismissed on grounds of res judicata.

On the Application dated 18th December 2025

- 45.** The 2nd Petitioner seeks the removal and discharge of Pauline Jepkemboi Kibet and Sylvester Kiplagat Kibet as Administrators, on the ground that they have abdicated their duties under Section 83 of the Law of Succession Act by refusing, without lawful cause, to execute LR Forms 39 and 42,

which are the instruments necessary to transmit the estate to the beneficiaries in accordance with the operative certificate. The proposed replacements are Grace Kibet and William Kiprotich Bett.

46. The duties and responsibilities of Administrators are found in **Section 83** of the Law of Succession Act. More specifically, **section 83(d)-(i)** provides that:

"(d) to ascertain and pay, out of the estate of the deceased, all his debts;

(e) within six months from the date of the grant, to produce to the Court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;

(f) subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;

(g) within six months from the date of confirmation of the grant, or such longer period as the Court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the Court a full and accurate account of the completed administration;

(h) to produce to the Court, if required by the Court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of

the deceased and a full and accurate account of all dealings therewith up to the date of the account;

(i) to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the Court, either of its own motion or on the application of any interested party in the estate, to produce to the Court a full and accurate account of the completed administration."

46. Section 83 of the Law of Succession Act imposes a clear legal obligation on every Administrator to collect and get in the estate, to administer it according to law, and to distribute it to those entitled. A deliberate and sustained refusal to execute the transmission instruments required to give effect to a confirmed and operative certificate of confirmation of grant is, on its face, an abdication of the duty imposed by that section. The record before this Court establishes that the certificate of confirmation of grant dated 15th November 2024 has been in force since that date. It was expressly confirmed as operative by the ruling of 11th March 2025. Transmission documents in the form of LR Forms 39 and 42 have been prepared. Pauline Jepkemboi Kibet and Sylvester Kiplagat Kibet have declined to execute those documents. Their stated basis, as deposed by Emmanuel Kemei in the replying affidavit filed on 10th March 2026, is that the survey exercise was conducted unilaterally and without consultation of all beneficiaries. This Court does not accept that explanation as a lawful basis for refusing to execute instruments required by a Court order that has been in force since November 2024 and was reaffirmed in March 2025. If the survey exercise was procedurally improper, the remedy was to bring that complaint before the Court promptly and by properly moving the Court, not to withhold cooperation with the execution of a Court-sanctioned certificate. The conduct of Pauline

Jepkemboi Kibet and Sylvester Kiplagat Kibet in refusing to execute the transmission documents constitutes, on the evidence before this Court, an abdication of the duties prescribed by Section 83 of the Law of Succession Act.

47. However, the question of whether removal and substitution in the manner proposed by the 2nd Petitioner is the appropriate remedy requires separate consideration. The Court has before it simultaneously the application dated 27th February 2026 which seeks the removal of Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet on grounds that they too have abdicated their duties. The Court cannot in the same ruling remove Administrators from one faction while retaining those from the other without making a considered finding on the evidence presented against each. The allegations against Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet at this stage remain unparticularised in terms of specific transactions, dates and consideration. The Court is not in a position to make a finding of dereliction against them on the basis of general averments. The prayer for substitution of Administrators in the specific manner proposed is accordingly declined.

48. In the case of **Re: Estate Of Julius Mimano (deceased) [2019] eKLR**, Hon Justice William Ouko stated as follows:

“Although the personal representative has legal title akin to that of an owner, the property does not belong to them. They only hold it in trust for the eventual beneficiaries thereof, that is those named in the will, in cases of testate succession, and those identified at confirmation of grant, in cases of intestacy. They would also be holding it for the benefit of creditors and any other persons who might have a valid claim against the estate. That would mean that they are trustees of the estate, and, indeed, the Trustee Act, Cap 167, Laws of Kenya, defines

trustees to include executors and Administrators. In the circumstances, therefore, the personal representative would stand in a fiduciary position so far as the property is concerned, and owes a duty to the beneficiaries to render an account to them of their handling of the property that they hold in trust for them. The duty to render accounts to beneficiaries arises from the trust created over estate property when the same vests in the personal representative to hold on behalf of the beneficiaries.”

- 49.** As regards Pauline Jepkemboi Kibet specifically, this Court notes a matter that goes beyond the grounds raised in the 2nd Petitioner's application. The record of these proceedings establishes that Pauline Jepkemboi Kibet has not appeared before this Court at any stage of the current proceedings. The administration of this estate has now reached a critical juncture. Given the fresh distribution exercise that this Court is directing as set out below, the active and personal engagement of every Administrator is not a formality but a legal necessity. An Administrator who is entirely absent from proceedings at this stage is not in a position to discharge the obligations that Section 83 of the Law of Succession Act imposes, and her absence creates a real risk of further delay and obstruction in the distribution process. This Court accordingly exercises its powers under Section 76(h) of the Law of Succession Act, which empowers the Court to revoke a grant for any other sufficient cause, and finds that Pauline Jepkemboi Kibet's sustained non-participation in these proceedings constitutes sufficient cause for revocation of the grant in her respect. Pauline Jepkemboi Kibet is hereby removed and discharged as Administrator of the estate of the late Kibet Sang, Deceased. The remaining Administrators are **Elizabeth Jepchirchir Sang, Julius Kipkemboi Kibet** and **Sylvester Kiplagat Kibet**.

50. In the 15th November 2024 Ruling, this Court ordered that in the event the Administrators abdicate their duties, the Deputy Registrar shall cause the County Surveyor to develop a survey plan together with a mutation reflecting the model of distribution in the Certificate of Grant, to be generated on the entire immovable estate and registered with the Land Registrar for purposes of transmitting the estate to the beneficiaries. That order was confirmed as operative by the ruling of 11th March 2025. The conditions giving rise to it are now plainly established beyond further argumentation. However, in view of the Court's own motion review directed below and the consequent need for fresh distribution proposals from the parties, the activation of the Deputy Registrar mechanism is held in abeyance pending receipt and consideration of those proposals. In the event, the administrators will not be efficient in discharging their duties, The Public Trustee is instead appointed to oversee the administration of this estate.

51. The application dated 18th December 2025 is accordingly dismissed to the extent of the specific prayers for removal and substitution of Administrators in the manner proposed. The substantive relief granted in respect of this application is the removal of Pauline Jepkemboi Kibet under Section 76(h) of the Law of Succession Act and the appointment of the Public Trustee, as set out in the orders below.

On the Application dated 27th February 2026

52. Valentine Jepkogei Kibet and Eunice Jepkoech Kibet seek three orders: the arrest of the ruling scheduled for 3rd March 2026, the amendment of the amended certificate of confirmation of grant dated 15th November 2024 to remove properties not registered in the name of the deceased, and the

removal of Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet as Administrators.

53. On the first prayer, it is academic. This ruling is the determination.
54. On the second prayer, the general proposition that properties not registered in the name of the deceased should be excised from the certificate was addressed and rejected by this Court in the ruling of 17th February 2026. Properties purchased by the deceased during his lifetime but not yet registered in his name at the date of his death do not thereby cease to form part of his estate for succession purposes. The Administrators possess the necessary documents to give effect to the purchaser's interest under Section 93 of the Law of Succession Act, and the appropriate remedy is title perfection under the Land Act 2012, not excision from the certificate.
55. On the third prayer, the Court addresses the specific allegations against Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet in turn.
56. The first and most specific allegation deposed to by Valentine Jepkogei Kibet in her supporting affidavit is that the certificate of confirmation of grant as extracted does not reflect what was directed in the ruling of 15th November 2024, in that the ruling allocated 1 acre in parcel Plateau/Plateau Block 2 (UG) 84 to Brian Kipleting, the son of Julius Kipkemboi Kibet, whereas the extracted certificate allocated the entire 17 acres of that parcel to Julius Kipkemboi Kibet himself. This allegation, if accurate, would seriously affect the integrity of the certificate as an instrument faithfully reflecting the Court's own directions. The Court has therefore gone back carefully to the ruling of 15th November 2024 and examined its operative schedule. The schedule at paragraph 56 of that ruling, which constitutes the authoritative statement of distribution, allocates Plateau/Plateau (UG) Farm No. 84 measuring 17.4 acres to Julius Kipkemboi Kibet as a purchaser whose interest was established through the

Partial Mediation Agreement of 29th February 2020 adopted as a Court order. Brian Kipleting does not appear anywhere in that schedule as an allocatee, whether in respect of 1 acre or any other portion of parcel 84. What the ruling does at paragraph 53 is, in the course of describing the survey findings regarding the Plateau Block 2 parcels, note that Brian Kipleting has a physical presence on Block 2/84. That is a description of occupation drawn from the survey report of 1st August 2023. It is not an allocation. A description of physical occupation in the body of a ruling is entirely distinct from an allocation in the operative schedule, and it is the schedule that governs. The certificate, in allocating the full 17.4 acres of parcel 84 to Julius Kipkemboi Kibet, is therefore entirely consistent with what the ruling of 15th November 2024 directed. The allegation is factually incorrect and is dismissed.

- 57.** The second allegation is that Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet hold titles in their respective names measuring 22 and 34 acres, held in trust for the family, but have declined to transfer those parcels back into the name of the deceased as required by the succession process, and have instead awarded themselves those portions in the grant. The Court notes that this allegation was considered and resolved in the ruling of 15th November 2024. At paragraph 57 of that ruling, the Court expressly found that this intestate estate has no applicability of gift inter vivos or gift mortis causa. The Court further in the same ruling found that there was no cogent evidence to support that the deceased intended an actual gift at the time sufficient to pass title to the 3rd Petitioner, relinquishing dominion over that share so that it would never form part of the free estate available to the other beneficiaries. The position of parcels 84 and 85 was settled by the mediation process and the Court's findings, and those findings are res judicata. They cannot be relitigated through the vehicle of an application for removal of Administrators.

58. The third and broader allegation, introduced through the supporting affidavit of Emmanuel Kemei, is that Elizabeth Jepchirchir Sang and Julius Kipkemboi Kibet have been disposing of portions of the estate without proper consultation with or consent of the beneficiaries, and have failed to render a true and accurate account of the estate. The Court takes note of these averments. However, they are stated entirely in general terms. The affidavit does not identify which specific portions were disposed of, on what dates, to whom, for what consideration, or which beneficiaries were thereby prejudiced. An order for the removal of Administrators under Section 83 of the Law of Succession Act is a drastic remedy with immediate consequences for the administration of the estate. It cannot be granted on the basis of unparticularized general averments unsupported by any documentary evidence. Should any beneficiary wish to pursue this ground by way of a properly constituted application that particularizes each transaction complained of with supporting documentary evidence, this Court will consider such application on its merits. On the evidence as it presently stands, this prayer is declined. The application dated 27th February 2026 is accordingly dismissed.

59. This Court now turns to a matter that arises not from any of the three applications before it, but from official correspondence received from statutory officers of the government of Kenya, which has placed before this Court new and important evidence of a character that directly affects the lawfulness and practicability of the distribution scheme contained in the certificate of confirmation of grant dated 15th November 2024. It is the duty of this Court, as a Court of equity and a Court seized of the administration of this estate, to act on that evidence rather than to ignore it in the interest of a finality that cannot honestly be described as final if it is built on a defective legal foundation.

60. Under Section 80 of the Civil Procedure Act and Order 45 Rule 1 of the Civil Procedure Rules, this Court may review its own decisions on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not available or could not have been produced at the time the decision was made.

61. In **Nyamogo & Nyamogo v Kogo {2001} EA 170**, discussing what constitutes an error on the face of the record, the Court rendered itself as follows: -

“An error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of un definitiveness inherent in its very nature and it must be determined judicially on the facts of each case. There is a real distinction between a mere erroneous decision and an error apparent on the face of the record. Where an error on a substantial point of law stares one in the face and there could reasonably be no two opinions, a clear case of error apparent on the face of the record would be made out. An error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Again, if a view adopted by the Court in the original record is a possible one, it cannot be an error apparent on the face of the record even though another view was possible. Mere error or wrong view is certainly no ground for review though it may be one for appeal.”

62. Discussing the scope of review, the Supreme Court of India in the case of **Ajit Kumar Rath vs State of Orisa & Others**, 9 Supreme Court Cases 596 at Page 608 had this to say: -

“the power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for stabling it. It may be pointed out that the expression “any other sufficient reason” means a reason sufficiently analogous to those specified in the rule”

63. The official correspondence now before this Court was not before it at the time of the November 2024 ruling or the March 2025 finality ruling. It has come into existence and been received by this Court in the period between those rulings and the present determination. It constitutes new and important evidence within the meaning of the review jurisdiction, and this Court acts on it of its own motion.

64. The first piece of official evidence is a letter dated 2nd December 2025 from the County Land Registrar G.R. Gichuki of the Uasin Gishu County Lands Office, under reference UG/HIGH COURT VOL.1, addressed to this Court. That letter addresses three parcels. In respect of Plateau/Plateau Block 2 (Uasin Gishu)/62, the letter reveals that the parcel is registered not in the name of the deceased Kibet Sang but in the name of James Macharia Wambugu, to whom it was transferred from the Government of Kenya on 18th September 1989, with title deed issued on 24th January 1990. The letter further discloses that a charge in favour of Standard Chartered Bank

Limited for Kshs. 300,000 was registered against that parcel on 10th July 1991, without any notation of discharge in the Land Registrar's records. In respect of Kaptagat/Kaptagat Block 1 (Losirwa) 116, the same letter confirms that the parcel is registered as a freehold title in the name of Kibet Sang, but that a caution was registered against that title on 26th June 2008 in the names of William K. Kibet, Julius Kipkemboi Bett and Sylvester Kiplagat Bett, all claiming beneficial interest, and that the said caution is still in place.

65. The second piece of official evidence is a further letter dated 27th February 2026 from the County Land Registrar, also addressed to this Court in respect of this cause, confirming in respect of Kaptagat/Kaptagat Block 1 (Losirwa) 116 that the parcel consists of a freehold title measuring approximately 32.30 hectares, that the land was transferred from the Government of Kenya to Kibet Sang on 29th September 1995, that a caution was registered on 26th June 2008 in the names of William K. Kibet, Julius Kipkemboi Bett and Sylvester Kiplagat Bett all claiming beneficial interest, and that there are no encumbrances registered against the title other than that caution.

66. The legal consequences of this official evidence are as follows. Plateau/Plateau Block 2 (Uasin Gishu)/62 is registered in the name of a third party who is not the deceased and is not a party to these proceedings, and it carries an undischarged bank charge. It cannot lawfully be treated as free net estate available for distribution to the beneficiaries of Kibet Sang without title perfection and discharge of the encumbrance. Whatever the circumstances by which it found its way into the certificate, it cannot be transmitted under the existing grant as though it were unencumbered estate registered in the name of the deceased. Kaptagat/Kaptagat Block 1 (Losirwa) 116 carries a subsisting registered caution claiming beneficial interest in the names of three individuals, two of whom are themselves

Administrators of this estate. Transmission of subdivided portions of that parcel to beneficiaries, including the very individuals who have lodged the caution, cannot proceed without first resolving the caution. Transmission in the face of an unresolved caution claiming beneficial interest would expose any registration to legal challenge and could result in irregular and defeasible title.

67. The removal of these two parcels from the distribution matrix is not a minor adjustment. Kaptagat/Kaptagat Block 1 (Losirwa) 116 is among the largest and most significant parcels in the estate. Under the schedule of the amended certificate of confirmation of grant dated 15th November 2024, it accommodated six beneficiaries from the first house as well as multiple purchasers. Plateau/Plateau Block 2 (Uasin Gishu)/62 accommodated Robert Kibet. The removal of these two parcels from the distributable estate necessarily disrupts the balance of the distribution scheme and cannot be addressed by simple substitution. It requires the parties to return to the distribution table and fashion a comprehensive fresh model of distribution that accommodates all affected beneficiaries within the remaining available parcels, while remaining consistent with the principles of Section 40 of the Law of Succession Act that have governed this estate throughout.

68. This Court accordingly invokes its review jurisdiction under Section 80 of the Civil Procedure Act and Order 45 Rule 1 of the Civil Procedure Rules, acting of its own motion, to review the certificate of confirmation of grant dated 15th November 2024 to the extent of removing Kaptagat/Kaptagat Block 1 (Losirwa) 116 and Plateau/Plateau Block 2 (Uasin Gishu)/62 from the immediate distribution matrix. The remainder of the distribution scheme in the November 2024 certificate is held on to as the reference framework and point of departure for the fresh proposals that the parties are now directed to file. It is not reopened for general

relitigation. The fresh proposals shall be confined to addressing how the affected beneficiaries from the two deferred parcels are to be accommodated within the remainder of the estate, and shall not reopen the allocation of parcels whose distribution has already been settled and is not affected by the deferment.

69. This Court is alive to the risk that the direction for fresh proposals may be used by some parties as an opportunity to reopen settled allocations and relitigate what has already been conclusively determined. This Court will not permit that. The fresh proposals must be filed in good faith, within the parameters of what the law requires, and must be directed at the specific question of accommodating the displaced beneficiaries. Any proposal that seeks to reopen allocations unaffected by the deferment of the two parcels will be rejected summarily. The parties, their Advocates, and the Administrators are on notice that this Court will not entertain further delay caused by bad faith litigation strategies in respect of matters that are *res judicata*.

70. The remaining Administrators, namely Elizabeth Jepchirchir Sang, Julius Kipkemboi Kibet and Sylvester Kiplagat Kibet, are expected to be active, cooperative and responsive in leading this process. Each Administrator owes a personal statutory duty under Section 83 of the Law of Succession Act to the beneficiaries of this estate. The Court has observed over the course of this litigation that the administration has been bedevilled by factional conduct that has prioritized individual advantage over collective duty. That era must end with this ruling. The Administrators are officers of this Court. Their continued appointment is conditional on their active and good faith participation in the fresh distribution exercise now directed. Should any Administrator fail to participate in the filing of fresh proposals within the time directed, or obstruct the process, this Court

will not hesitate to invoke Section 76 of the Law of Succession Act to revoke their appointment.

71. Just to demonstrate the gravitas and disagreement which have bedevilled this estate since the issuance of the Certificate of Confirmation of Grant which by effluxion of the law ought to have been partially or fully transmitted during the pendency of drafting this ruling yet another certificate of urgency was filed on 24th March 2026 by one Sylvester Kiplagat Kibet. The best I can recall this beneficiary was represented by legal Counsel and now he purports to represent himself without complying with the law of filing the necessary instruments of having ceased the right to retain legal Counsel and take the liberty to notify the Court that the proceedings henceforth shall be under self-representation.

72. However, that as may be the application be served upon all the beneficiaries and reading it insitu and in sync with the instant ruling they be at liberty to file the necessary rejoinder to the interlocking issues on the application. Again as I have alluded to, the issue of locus standi as between Sylvester Kibet and his legal Counsel ought to surmounted to avoid an abuse of the Court process.

73. This succession the way I see it having been involved in its adjudication under Article 50(1) of the Constitution has got more to do with the revocation of the initial Certificate of Confirmation of Grant under Section 76 of the Act following a successive objection proceedings involving Mary Chepyator Kossom, Grace Kibet, Rael Kibet, Rose Sang and Sylvester Kiplagat Kibet. In that ruling the Court exercising discretion ordained itself that there was an infringement of Sections 35, 36, 37, 38 as read with 40 of the Law of Succession Act and permeating it with Article 27(4) of the Constitution with regard to exclusion of the daughters to the deceased from being part of the inheritance scheme. The Administrator was emphatic during the trial that her daughters have no right to inheritance to

the estate of the deceased. With regard to Sylvester as a beneficiary, this Court declined to perfect an imperfect gift inter vivos. The issue of inclusion of some properties not in the name of the deceased should be laid at the doorsteps of the Administrators and not the forum of adjudication. This is the battleground which must surmounted by the beneficiaries otherwise they will tarmac before the Court corridors of Eldoret in the name of seeking justice and indeed due to the delay in distributing the estate justice sheds tears on their behalf. I hope as I detour to the far land of this Republic to continue being part of the Great Vision of the Chief Justice on Social Transformation through Access to Justice Blueprint the change of leadership of this Court to Joshua now the PJ Anthony Kimani shall bring in the much needed fresh legal oxygen to deliver this estate to the heirs whom their father who created the wealth has waited for so long in the heavenly mansion to see them enjoy the fruits of his labour.

74. As of now in conclusion, the applications dated 11th March 2025, 18th December 2025 and 27th February 2026 are dismissed to the extent set out in this ruling, and the following final orders shall abide:

- a. *That Pauline Jepkemboi Kibet is hereby removed and discharged as Administrator of the estate of the late Kibet Sang, Deceased, pursuant to Section 76(h) of the Law of Succession Act. The remaining Administrators are Elizabeth Jepchirchir Sang, Julius Kipkemboi Kibet and Sylvester Kiplagat Kibet.*
- b. *That in the alternative the Administrator Pauline Jepkemboi Kibet feels strongly that she needs to the part of the administration and transmission of the estate she must comply with the law under*

Section 82, 83 and 84 of the Act.

- c. That in the event there will be continued squabbles of disobedience by the Administrators to move with speed and transmit the estate as per the law established their appointment shall stand revoked under Section 76 of the Act and in their place the Public Trustee shall be vested with the powers of administration to deliver devolution of the shares to the beneficiaries as per the law established.*
- d. That the certificate of confirmation of grant dated 15th November 2024 is partially reviewed of this Court being moved under Section 80 of the Civil Procedure Act and Order 45 Rule 1 of the Civil Procedure Rules as read with Rule 73(1) of the Probate and Administration Rules and Section 1A, 1B, 3 and 3A of the Civil Procedure Act. That is with regard to Kaptagat/Kaptagat Block 1 (Losirwa) 116 and Plateau/Plateau Block 2 (Uasin Gishu)/62 are hereby removed from the distribution matrix of that certificate with immediate effect and shall not be transmitted to any beneficiary until the matters set out in the ruling have been resolved and a fresh certificate incorporating the revised distribution has been confirmed by this Court.*
- e. That the remaining Administrators are jointly and severally directed within thirty days of this ruling to take all steps necessary to address the caution registered on 26th June 2008 against Kaptagat/Kaptagat Block 1 (Losirwa) 116, and to pursue title perfection and formal confirmation of discharge of the Standard Chartered Bank charge in respect of Plateau/Plateau Block 2 (Uasin Gishu)/62, under Section 93 of*

the Law of Succession Act and the Land Act 2012, and to file a report on the progress of those steps with the Deputy Registrar.

- f. That the surviving widows, Pauline Jepkemboi Kibet and Elizabeth Jepchirchir Sang, shall hold their respective allocations of immovable property as life interests within the meaning of Section 35 of the Law of Succession Act. That character attaches by operation of law and requires no amendment to the certificate. Upon the death or remarriage of each widow, her life interest shall thereupon determine by virtue of Section 35(5) of the Law of Succession Act, whereupon her allocated portion shall devolve among the children of her respective house in accordance with the applicable provisions of the Act.*
- g. That all Administrators and beneficiaries, through their respective Advocates, are directed to file fresh proposals for the revised distribution of the net estate of the late Kibet Sang, Deceased, with the Deputy Registrar within thirty days of this ruling. Those proposals shall address specifically how the beneficiaries who were allocated portions within Kaptagat/Kaptagat Block 1 (Losirwa) 116 and Plateau/Plateau Block 2 (Uasin Gishu)/62 under the November 2024 certificate are to be accommodated within the remaining available parcels of the estate. The proposals shall not reopen allocations of parcels unaffected by the deferment unless by doctrine of necessity a need arises to reprogramme and rearrange the distribution de novo. In this respect, or any such step taken shall be consistent with the unit formula*

under Section 40 of the Law of Succession Act that has governed this estate throughout.

- h. That the distribution scheme in the certificate of confirmation of grant dated 15th November 2024 is held on to as the operative reference framework for all parcels other than Kaptagat/Kaptagat Block 1 (Losirwa) 116 and Plateau/Plateau Block 2 (Uasin Gishu)/62 be varied, reviewed by having a temporary order of setting them aside in the first instance pending provision of the exacting information as to its tenure with regard to the net estate of the deceased. Thereafter the transmission of those other parcels shall proceed once fresh proposals in respect of the two deferred parcels have been filed, considered and approved by this Court, and a fresh certificate incorporating the revised distribution has been confirmed.*
- i. That this matter shall be mentioned before this Court within 45 days to appraise itself on the progress and for further directions.*
- j. That each party shall bear its own costs of the three applications.*

75. Orders accordingly.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 30TH DAY OF MARCH, 2026

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**SUCCESSION CAUSE NO. E105 OF
2010**

**R. NYAKUNDI
JUDGE**

***SUCCESSION CAUSE NO. E105 OF
2010***