

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE NO. E163 OF 2025

**IN THE MATTER OF THE ESTATE OF THE LATE WILLIAM CHESILUT
LELEI (DECEASED)**

GLEDI LELEI 1ST PETITIONER
TIMOTHY MAIYO 2ND PETITIONER

=AND=

DORCAS CHEROBON OBJECTOR

=AND=

EZEKIEL KIPKORIR LELEI.....1ST INTERESTED PARTY
ANNESALVAN JEPCHIRCHIR.....2ND INTERESTED PARTY
ELIUD KIPKOECH LELEI.....3RD INTERESTED PARTY
EDWIN KIPROTICH YEGO.....4TH INTERESTED PARTY
MILKA JEPKOOSGEI LELEI.....5TH INTERESTED PARTY
ELIAS KIPKEMBOI LELEI.....6TH INTERESTED PARTY

Coram: Justice R. Nyakundi
M/s Isiaho Sawe & Co. Advocates
M/s Ketter N.K. Advocates

RULING

1. Before this Court is an Application dated 27th February 2026. The Applicant seeks the following orders;
 - (a) *Spent*
 - (b) THAT there an order directing the 1st and 2nd Respondent/administrator to file substantive Succession proceedings in respect of the Estate and serve the objector and the Applicants herein.
 - (c) THAT in default of compliance in prayer (b) above, the objector and the interested parties/Applicants be mandated to institute full Succession proceedings over the Estate of the Deceased
 - (d) THAT any other relief that this Honourable Court may deem fit to grant

- (e) THAT Cost be borne by the Respondent.
2. The Application is made on the following grounds;
- a. THAT the Respondent have not instituted substantive Succession Proceedings within 60 days from 1st December, 2025 as ordered by this Court.
 - b. THAT the Respondents have instead intermeddled with the estate by fencing off the Applicants leasing out, selling and wasting the entire estate under the disguise of the Colli-genda granted by this Court. (copy of Ad colligenda Bona Order)
 - c. THAT the Applicants, who are the children of the objector together with homeless and without access to the portion of land allocated to them by the deceased and a Kapsabet Court ELC E016/2022 Ruling
 - d. THAT the Respondents are misusing the Limited Grant herein granted destroyed, stole the gate now fenced off our gate entry. (Photos of gate and entry point photos attached.
 - e. THAT the delay in filing substantive succession proceedings by the Respondents is deliberate and is to the disadvantage of the Applicants who are direct dependents of the Estate of the Deceased.
3. In response to the Application the Respondents filed a Replying Affidavit dated 9th March 2026 stating as follows;
- i. *THAT we are the Petitioners in this cause and are duly authorized and competent to swear this affidavit hence the matters deponed to herein are within my knowledge save where otherwise stated.*
 - ii. *THAT contrary to the grounds alleged by the Objector/Applicant, there is a substantive succession proceedings instituted in this Honourable Court on the 6th day of January 2026 in respect of the estate of the deceased, being Succession Cause No. E028 of 2026. (Annexed hereto and marked "GKM-1" is a copy of the said Citation)*
 - iii. *THAT the said succession proceedings were lawfully instituted for the purpose of administration and distribution of the estate of the deceased.*

- iv. *THAT the Petitioners thereafter lawfully filed the Petition for Grant of Letters of Administration which culminated in the institution of Succession Cause No. E028 of 2026 before this Honourable Court.*
- v. *THAT the Petitioners wish to state that no person has intermeddled with the estate of the deceased, and the estate remains intact pending the determination and administration of the succession proceedings before this Honourable Court.*
- vi. *THAT further, the Petitioners confirm that all the rightful and proper beneficiaries of the deceased have been duly disclosed and included in the said succession cause in accordance with the law.*
- vii. *THAT the Petitioners have acted in good faith and strictly within the confines of the law in instituting and prosecuting the said succession proceedings.*
- viii. *THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.*

Decision

4. From the record the following beneficiaries namely: Marcella Lelei (Spouse), Emily Lelei (Spouse), Gledi Lelei (Son), Isabella Lelei (Daughter), Macrina Chelagat Lelei (Daughter), Alice Lelei (Daughter), Timothy Maiyo (Son), Dominic Sambutie (Son), Michael Chesilut (Son), Vincent Chesilut (Son), Joseph Lelei (Son), Tenai (Daughter) and Edwin Chesilut (Son), petitioned and consented for the Grant of Letters of Administration Ad Colligenda Bona for the collection and preservation of the intestate estate of the deceased one William Chesilut Lelei be issued to Gledi Lelei and Timothy Maiyo.
5. Thereafter, the objector Dorcas Cerobon filed Summons expressed to be brought under Section 3 & 3A of the Civil Procedure Act, Rule 3 (2) of the High Court [Practice and Procedure] Rules of the Judicature Act and all other enabling provisions of the Law seeking the following orders;

2. THAT the status quo ante the death of the deceased herein be maintained pending the institution of the substantive succession proceedings.

3. THAT this honourable Court be pleased to make such further or other orders as it may deem just and expedient in the circumstances of this case.

WHICH APPLICATION is supported by the grounds set out hereunder and the annexed affidavit of DORCAS CHEROBON, Advocate and such further grounds to be adduced at the hearing hereof;

1. THAT the Petitioners moved this court and obtained a Limited Grant of Letters of Administration Ad Colligenda Bona based on misrepresentation and/or non-disclosure of material facts.
2. THAT the Petitioners/Respondents are interfering with the status quo that existed during the lifetime of the deceased herein at the expense of the 3rd house.
3. THAT the Objector/Applicant in the above premises is seeking revocation of the aforesaid Limited Grant of Letters of Administration Ad Colligenda Bona.
4. THAT there is need for this court to make preservatory orders to preserve the estate of the deceased herein before succession proceedings can be instituted.
5. THAT the ex-parte orders currently in force were issued oblivious of the fact that the three (3) widows of the deceased are alive and rank first in priority as against the Petitioners herein.
6. THAT the Petitioners/Respondents may take advantage of the Grant in their favour at the expense of the 3rd house hence rendering appropriate orders necessary.
7. THAT in the above circumstances, it is in the best interest of justice that appropriate orders be issued by this Honourable court pending the determination of the summons filed herewith.

8. *THAT the Respondents/Petitioners will not be prejudiced in any way should the orders sought issue as they will have an opportunity to ventilate their case on merit.*
9. *THAT this summons has been brought promptly and in good faith.*
6. According to Dorcas Cherobon;
 - a. *THAT she is the 3rd widow of the deceased*
 - b. *THAT the deceased sired six (6) children with me in his lifetime.*
 - c. *THAT I recently discovered that the Respondents/Petitioners had instructed a contractor to proceed with construction on L.R No. Nandi/Mutwot/325 belonging to the deceased herein jointly with his late father. (A copy of the photograph confirming the construction that has been undertaken since the Letters of Administration were issued by this court if hereby annexed and marked "A").*
 - d. *THAT the portion earmarked for construction is inclusive of the land allocated to me by the late Chemugun Sisei, who was the mother to the deceased herein and my mother-in-law.*
 - e. *THAT on inquiry, the Respondents/Petitioner boasted that they had been appointed Administrators of the deceased herein by this court.*
 - f. *THAT I instructed Ms. Isiaho, Advocate to confirm from the court whether any proceedings had been filed by the Respondents as alluded.*
 - g. *THAT my counsel on record established that indeed these proceedings had been instituted without my knowledge and/or participation albeit being the deceased's 3rd widow.*
 - h. *THAT the Respondents/Petitioners represent the deceased's 1st and 2nd houses respectively.*
 - i. *THAT the Respondents and by extension beneficiaries of the 1st and 2nd houses are using the ex-parte orders they obtained at my expense and the 3rd house in general.*
 - j. *THAT the Respondents have threatened to start construction on the portion comprised in L.R No. Nandi/Mutwot/325 which was allocated*

and identified to me by the deceased herein hence rendering urgent preservative orders necessary.

- k. THAT in the foregoing, there is need to sustain the status quo that existed as at the time of the deceased's death before substantive succession proceedings are instituted.*
 - l. THAT in the above circumstances, it is in the best interest of justice that appropriate orders issue pending the final determination of the summons filed herewith.*
 - m. THAT the Respondents will not be prejudiced in any way should the orders sought issue as they will have an opportunity to ventilate their defense to my case on merit at the optune time.*
 - n. THAT I believe that I have met the benchmarks for issuance of preservative orders.*
 - o. THAT this application has been brought promptly and in good faith.*
 - p. THAT the orders sought will serve the best interest of justice.*
 - q. THAT I believe that this honourable court is clothed with the jurisdiction/discretion to grant the orders sought in the best interest of justice which discretion I urge it to exercise in my favour.*
 - r. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.*
7. Although this matter was filed as a substantive Succession Cause basically it was commenced by way of Special Grant under Section 67 of the Act commonly known as Ad Colligenda Bona. These Letters of Grant serves a specific purpose and it is underpinned for the protection and preservation of the estate. The objector therefore on realizing that the Ad Colligenda Bona had been issued to the Petitioners she became anxious and apprehensive that her rights to inheritance could be prejudice because she was not involved from the very beginning by the Petitioners. In her contestation there was nothing like preservation of the estate for the Petitioners used it for the narrow purpose of constructing the building on the land parcel Nandi/Mutwot /325.

8. The evidential material so far shared with the Court denotes that the issue of the objector being married to the deceased is a contested issue. It cannot be re-litigated pursuant to the Special Grant dated 8th August 2025.
9. Insofar as this matter is concerned let the beneficiaries petition procedurally so under the Law of Succession Act so that any objections under Section 29 of the Act can be litigated on the merit. On the whole construction on the intestate parcel of land is not conservation and preservation as envisioned by the drafters of the Law of Succession in 1981. I have considered very carefully the issues raised by the objector and in the same vein perused the reply by the Petitioners it is fundamental and pivotal that each interested party, claimant, petitioner and beneficiaries be given a chance to be heard before a Court of law. The issue as to whether the objector is not a beneficiary under Section 29 of the Act is a matter for the Probate Court. That Court is properly constituted once the Administrators have moved the Court by way of Petition which must be gazette by the Government Printers. I am made to understand that the Succession Cause No. E028 OF 2026 has been registered so that the Court has jurisdiction to hear and determine this matter. As for this case docket it is now moot and each of the beneficiaries herein who has the locus standi in the matter of the estate of the late William Chesilut should join the litigation in the aforesaid Succession Cause. This file be marked as formerly closed.
10. It is so ordered

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 10TH DAY OF APRIL 2026

.....

**R. NYAKUNDI
JUDGE**