

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BOMET**  
**SUCCESSION CAUSE NUMBER E041 OF 2024**

**IN THE MATTER OF THE ESTATE OF KIPKEMOI ARAP TONU**  
**(DECEASED)**

**ROSE CHELANGAT TONU** ..... **1<sup>ST</sup>**  
**PETITIONER**

**CHARLES KIBET TONU** ..... **2<sup>ND</sup>**  
**PETITIONER**

**VS**

**GILBERT KIPNGETICH LANGAT** .....  
**OBJECTOR**

**R U L I N G**

1. In this matter, a Grant was issued to the Petitioners on 22<sup>nd</sup> January 2025 and thereafter a Certificate of Confirmation of

Grant was issued on 22<sup>nd</sup> July 2025 in respect of the deceased's estate known as KERICHO/KIPSONOI SS/168.

### **Summons for Revocation**

2. The Objector filed his Application for revocation of the Grant dated 2<sup>nd</sup> February 2026 where he sought the following orders:

- I. Spent.
- II. THAT this Honourable Court be pleased to grant an inhibition/prohibition and/or preservative order against any registration, transfer, charge. Lease or any dealing in land parcel number KERICHO/KIPSONOI SS/168 pending the hearing and determination of this Application.
- III. THAT the Grant of Letters of Administration made and issued to Rose Chelangat Tonui and Charles Kibii Langat on 22<sup>nd</sup> January 2025 and confirmed on 22<sup>nd</sup> July 2025 be revoked and/or annulled.

3. Through his Supporting Affidavit dated 2<sup>nd</sup> February 2026, the Objector stated that he was the deceased's son from the 2<sup>nd</sup> household. That the deceased was the registered owner of KERICHO/KIPSONOI SS/168 which was discharged from the settlement fund trustee and transferred giving rise to KERICHO/KIPSONOI SS/685. The Objector further stated that the Grant was issued and confirmed in his absence and had not been allocated any share in the deceased's estate.

4. It was the Objector's case that at the time of taking out the Grant of Letters of Administration, the Petitioners concealed the fact that there was a similar and prior succession proceeding involving the same beneficiaries. It was the Objector's case that he never knew of the existence of the present succession suit as he was actively litigating Bomet High Court Succession Cause Number E035 of 2024 which had the same beneficiaries. That the Grant was obtained fraudulently due to the non-disclosure of material facts.

5. The Objector stated that the Petitioners' conduct was aimed at sidelining them and violating their rights as beneficiaries. That the Petitioners' demeanour was suspicious. The Objector further stated that the distribution contained in the Certificate of Grant did not represent the deceased's wishes who prior to his death had settled all his children.

6. It was the Objector's case that the Petitioners had made concerted efforts to effect the distribution of the deceased's estate in line with the impugned Certificate of Confirmation of Grant dated 22<sup>nd</sup> July 2025 and singled out and invaded the parcel occupied by the 2<sup>nd</sup> household with a view of distributing it amongst themselves.

7. There was no response from the Petitioners. The Objector filed an Affidavit of Service dated 23<sup>rd</sup> February 2026 in which he indicated that the 1<sup>st</sup> Petitioner and her Advocates, M/S Kandie Mutai Mudeizi Advocates were served with the present Application on 16<sup>th</sup> February 2026 and 12<sup>th</sup> February 2026 respectively. I am therefore satisfied that the

Petitioners were served with the Application and they failed to respond to it.

8. I have gone through the entire record and the Summons for Revocation of Grant dated 2<sup>nd</sup> February 2026. The only issue for my determination was whether the Grant dated 22<sup>nd</sup> January 2025 and confirmed on 22<sup>nd</sup> July 2025 should be revoked.

9. The law on revocation of Grants is provided for in **Section 76 of the Law of Succession Act** which states that: -

**A grant of representation, whether or not confirmed, may at any time be revoked or annulled if the court decides, either on application by any interested party or of its own motion-**

**(a) that the proceedings to obtain the grant were defective in substance;**

**(b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;**

**(c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;**

**(d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either-**

**(i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or**

**(ii) to proceed diligently with the administration of the estate; or**

**(iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or**

**(e) that the grant has become useless and inoperative through subsequent circumstances.**

10. The Objector stated that he was the deceased's son from the second household and the beneficiaries from the second household were not listed as beneficiaries of the deceased's estate and were not informed of the present succession proceedings. The Objector further stated that they were not allocated a share of the deceased's estate in the impugned Certificate of Confirmation of Grant dated 22<sup>nd</sup> July 2025. The Objector attached a Chief's Letters as "GKL-5" in support of his case.

11. I have looked at the Chief's Letter dated 6<sup>th</sup> November 2023 and it has indicated that the deceased had two households and that the Petitioners were from the first household and the Objector and Joyce Chepkemoi were from the second household. The importance of Chief's Letters in identifying the deceased's kin has been stated in several authorities which include; In **re Estate of Stanley Mathenge Ruriga (Deceased) [2018] KEHC 4522 (KLR)**, the court held: -

***“..... The purpose of the Chief letter is to ensure that the right party files succession.....”***

12. Similarly, in **re Estate of Mutaba Kioko alias Michael Mutava Kioko (Deceased) [2025] KEHC 8434 (KLR)**, the court held: -

***“.....This Court takes judicial notice of the important role played by Chief's letters in***

***succession proceedings. When one files for letters of administration intestate, one of the crucial documents that is required is a letter from the chief. In the case of Ayako v Oronje [2024] KEHC 7641 (KLR) the court held that;***

***“I should point out that the act of issuing a chief’s letter or that of local Administration in succession proceedings is Administrative, not legal, on the part of the local Administrator.***

***The courts, traditionally, require the chiefs to assist the court to ascertain the immediate kindred of a Deceased person. The chiefs are considered reliable, as it is expected that he/she is well acquainted with the residents of his location. However, there is no law that binds the chiefs to issue such a letter (s).”***

13. In **Stephen Kivuti Kiura v Anastacia Murugi Muthui & another [2021] KEHC 3694 (KLR)**, the court held: -

***“..... It is trite law that dependency is a matter of fact and evidence has to be adduced to prove the same. Though the respondents listed the dependants, no birth certificates were produced or at the very least, a letter from the chief to show that the children exist.”***

14. The Petitioners did not rebut the contents of the Chief’s Letter. From the above, it is my finding that the Objector was the deceased’s son. I also agree with the Objector and find that members of the second household were not listed as beneficiaries of the deceased’s estate and were not included in its distribution. This was material non-disclosure on the part of the Petitioners and this effectively made the Grant defective.

15. The Objector stated that the Petitioners failed to inform this court of an earlier succession proceedings involving the deceased's estate being Bomet High Court Succession Cause Number E035 of 2024, In the matter of the Estate of Kipkemoi Arap Tonui (deceased). The Objector attached one of the filing documents being an Affidavit in support of Petition for Letters of Administration Intestate and it was marked as "GKL-4". I have looked at the exhibit and it indicated the existence of an earlier suit (Bomet High Court Succession Cause Number E035 of 2024). The Affidavit also listed members of the first household including the Petitioners as the deceased's beneficiaries.

16. From the above, I am satisfied that there are two succession proceedings involving the deceased's estate. While it is unclear of the first household's participation in the earlier suit (Bomet High Court Succession Cause Number E035 of 2024), it is improper for the two suits to proceed concurrently. Any issues arising out of the succession

proceedings can be addressed in the earlier suit (Bomet High Court Succession Cause Number E035 of 2024).

17. In the final analysis, it is my finding that the Objector proved that the Grant dated 22<sup>nd</sup> January 2025 and confirmed on 22<sup>nd</sup> July 2025 was obtained fraudulently by means of material non-disclosure. It is my further finding that the Objector met the threshold for revoking of the Grant as provided for in **section 76 of the Law of Succession Act.**

18. In the end, the Application dated 2<sup>nd</sup> February 2026 has merit and the Grant dated 22<sup>nd</sup> January 2025 and confirmed on 22<sup>nd</sup> July 2025 is hereby revoked. Costs are awarded to the Objector.

19. Each Party to bear its own costs.

**Ruling delivered, dated and signed at Bomet this 28<sup>th</sup> Day of April, 2026.**

.....  
**HON. JULIUS K. NG'ARNG'AR**  
**JUDGE**

**Ruling Delivered in the presence of;**  
**Susan/Siele Court Assistant**  
**Ondieki for Objector**  
**Petitioner - N/A**

ORIGINAL