

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BOMET**

**SUCCESSION CAUSE NUMBER 37A OF 2023**

**IN THE MATTER OF THE ESTATE OF RICHARD KIBET KIRUI**

**(DECEASED)**

**MATHEW KITUR RONO ..... PETITIONER**

**VS**

**BEATRICE CHELANGAT KIRUI ..... 1<sup>ST</sup> OBJECTOR**

**LILIAN CHEPTOO KIRUI ..... 2<sup>ND</sup> OBJECTOR**

**EMMY CHEPKEMOI KIRUI ..... 3<sup>RD</sup> OBJECTOR**

**ERICK KIPRONO BETT ..... 4<sup>TH</sup> OBJECTOR**

**WILLIAM CHERUIYOT BETT ..... 5<sup>TH</sup> OBJECTOR**

## **R U L I N G**

1. In this matter, a Grant was issued to the Petitioner on 13<sup>th</sup> February 2018 and thereafter a Certificate of Confirmation of Grant was issued on 29<sup>th</sup> May 2019 in respect of the deceased's estate known as KERICHO/KAITET/281.

### **Summons for Revocation**

2. The Objectors filed their Application for revocation of the Grant dated 31<sup>st</sup> October 2023 where they sought the following orders: -
  - I. Spent.
  - II. Spent.
  - III. Spent.
  - IV. THAT the Grant of Letters of Administration Intestate made to the said Mathew Kitur on 13<sup>th</sup> February 2018 and confirmed on 29<sup>th</sup> May 2019 be revoked and /or annulled.

- V. Upon granting prayer 4 above, the court be pleased to issue an order that the transfer of parcel known as KERICHO/KAITET/281 and the subsequent subdivision to form KERICHO/KAITET/1781 and KERICHO/KAITET/1782 were fraudulently procured thus null and void.
- VI. THAT the Honourable Court be pleased to issue an order cancelling the titles to the parcels known as KERICHO/KAITET/1781 and KERICHO/KAITET/1782 and revert to the mother title being KERICHO/KAITET/281 for proper succession to be conducted.
- VII. THAT the court be pleased to issue an order directing the Land Registrar to recall the titles issued to the Respondent herein in regards to the parcels known as KERICHO/KAITET/1781 and KERICHO/KAITET/1782.
- VIII. That the OCS Chepilat Police Station to ensure compliance with the said orders.

3. Through her Supporting Affidavit dated 31<sup>st</sup> October 2023, the 3<sup>rd</sup> Objector stated that she was the deceased's

daughter. That the deceased died and was succeeded by three daughters and three sons (Objectors). The 3<sup>rd</sup> Objector further stated that after the death of their father, her brother and aunt applied for Grant of Letters of Administration of the deceased's estate through Nairobi High Court Succession Cause Number 1693 of 2003. That the said succession cause was never concluded and the deceased's estate was not distributed.

4. It was the 3<sup>rd</sup> Objector's case that the deceased's estate comprised a parcel known as KERICHO/KAITET/281(suit parcel) which the deceased acquired by virtue of being a shareholder in Kaitet Farmers Co-op Society Ltd. That as a result of the membership, the deceased was given the suit parcel. It was the 3<sup>rd</sup> Objector's further case that they had been occupying the suit for over 28 years since the demise of the deceased and had established homes and done cultivation on the suit parcel.

5. The 3<sup>rd</sup> Objector stated that after an invasion by strangers, they visited the Bomet Land Registry and discovered that the Petitioner was the alleged administrator of the deceased's estate and had subdivided the subject parcel into KERICHO/KAITET/1781 and KERICHO/KAITET/1782, both registered in the Petitioner's name. The 3<sup>rd</sup> Objector further stated that the succession proceedings had emanated from Sotik Law Courts where the Petitioner misled the court that he had purchased the suit parcel and further that the deceased had no other beneficiary apart from Festus Bett.

6. It was the 3<sup>rd</sup> Objector's case that the Petitioner had lodged another case in Kericho ELC Suit Number 85 of 2013 against Alfred Cheramgoi in which the court dismissed the suit stating that the suit parcel was registered in the deceased's name and that the Petitioner was not the registered owner. That the ELC court noted that the Petitioner had made alterations to the receipt in which he claimed to have bought shares from Kaitet Ranching Farmers Co-op Society.

7. The 3<sup>rd</sup> Objector stated that the Petitioner's actions had caused immense stress and discomfort to their family and they were prone to face eviction as the titles to KERICHO/KAITET/1781 and KERICHO/KAITET/1782 were still registered in the Petitioner's name. That the Petitioner would not suffer any prejudice if the Grant was revoked. The 3<sup>rd</sup> Objector further stated that the Grant should be revoked to protect the interest of the deceased's beneficiaries.

8. Through their written submissions dated 8<sup>th</sup> November 2025, the Objectors submitted that as per **section 38 of the Law of Succession Act**, they were entitled beneficiaries to the deceased's estate. That the Petitioner ought to have cited all the deceased's beneficiaries. The Objectors further submitted that the Petitioner failed to disclose to the court that the deceased left behind other beneficiaries.

9. It was the Objectors' submission that the Petitioner did not provide any evidence that he had bought the subject parcel

or demonstrate how his alleged peaceful and uninterrupted occupation of the suit parcel. That the Petitioner's case was majorly premised on fraudulent acquisition of the Grant. It was the Objectors' further submission that the Petitioner was intent on disinherit them.

10. The Objectors submitted that the Petitioner's fraud had been exhibited by the Judgement in the Kericho ELC Suit which held that the Petitioner used forged documents to prove that he had purchased the suit property. That he claimed to have purchased the suit parcel from Alfred Cheramgoi yet he had earlier claimed to have purchased the same from the deceased. The Objectors further submitted that the Petitioner failed to disclose to this court the existence of the ELC suit.

### **Response**

11. Through his Replying Affidavit dated 10<sup>th</sup> November 2023, the Petitioner stated that the deceased was not an original shareholder with Kaitet Ranching Farmers Co-op Society Ltd.

The Petitioner further stated that he acquired two shares at Kaitet Ranching Farmers Co-op Society being share numbers 471 and 568. That share 471 was allocated plot number 279 which was later changed to 281.

12. It was the Petitioner's case that the rules in Kaitet Ranching Farmers Co-op Society Ltd were changed to the effect that a member was not supposed to have more than one share hence he gave out his share to one Alfred Cheramgoi on condition that half of the allocated land was his. That he later realized that Alfred Cheramgoi transferred his (Petitioner) share to the deceased who was his cousin with the knowledge that the Petitioner owned half of it. It was the Petitioner's case that he approached the deceased to transfer his half share to him but the deceased kept on postponing the exercise till he died.

13. The Petitioner stated that after the deceased's death, he went to see the deceased's family but one of the deceased's sons called Festus Bett chased him away. That he then sued

Alfred Cheramgoi in the ELC court at Kericho but the court ruled that the suit parcel was not registered in the name of Alfred Cheramgoi. The Petitioner further stated that he filed a Citation and the subsequent succession proceedings followed due process and complied with the legal requirements.

14. It was the Petitioner's case that the Grant was issued to him when the 30 days lapsed without any objection and it was later confirmed after 6 months without any objection. That he had already executed the Grant and subdivided the suit parcel into two portions. It was the Petitioner's further case that he was currently occupying KERICHO/KAITET/1781 while the Objectors occupied KERICHO/KAITET/1782. That KERICHO/KAITET/1782 was being held by Festus Bett as a trustee of his siblings.

15. The Petitioner stated that the Objectors had not been in full occupation of the suit land as they had lived elsewhere. That the deceased and Alfred Cheramgoi defrauded him of his share when he acted in good faith when he gave them share

number 471 without any consideration. The Petitioner further stated that he was not a stranger to the deceased's estate.

16. Through his written submissions dated 25<sup>th</sup> February 2025, the Petitioner submitted that he owned KERICHO/KAITET/1781 while Festus Bett owned KERICHO/KAITET/1782. The Petitioner further submitted that the Objectors had not proved any fraud that he committed while obtaining the Grant. He relied on **Mbuthia Macharia vs Anna Mutau Ndwiga & another (2017) eKLR** and **section 107 of the Evidence Act.**

17. It was the Petitioner's submission that the Objectors were aware of the succession proceedings as he had cited their elder brother, Festus Bett and they all lived on the same land. It was the Petitioner's submission that he had shown good faith while dealing with the deceased's estate by citing the eldest son of the estate and despite the Objectors being fully aware of the proceedings, they failed to raise an objection.

18.I have gone through the entire record, the Summons for Revocation of Grant dated 31<sup>st</sup> October 2023, the Replying Affidavit dated 15<sup>th</sup> March 2024, the Objectors' written submissions dated 8<sup>th</sup> November 2025 and the Petitioner's written submissions dated 25<sup>th</sup> February 2025. The only issue for my determination was whether the Grant dated 13<sup>th</sup> February 2018 and confirmed on 29<sup>th</sup> May 2018 should be revoked.

19.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.**

20.The Objectors stated that the Petitioner failed to inform the court of the existence of other beneficiaries of the deceased's estate and further misled the court that he was the owner of the suit land, then KERICHO/KAITET/281. The Objectors further stated that they were the deceased's children and that the Petitioner was a stranger to the deceased's estate.

21. In proving their case, the Objectors attached a Chief's Letter as "ECK-4". I have looked at the Chief's Letter dated 1st September 2023 and it has indicated that the deceased was survived by Festus Kipngetich Bett and the 5 Objectors. 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....."***

22. 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).”***

23. In **Mombasa Maize Millers Limited v Roselyne Atieno Ouma & another [2017] KEHC 7842 (KLR)**, the court held: -

*“.....In any event the Chief's letter suffices to prove that fact on a balance of probabilities more so as there is no evidence rebutting it.....”*

*..... The Chief's letter as I have stated proves the status of the estate of the deceased as well as who his survivors were.”*

24. 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.”***

25. The Objector did not rebut the contents of the Chief’s Letter. Infact in his Replying Affidavit dated 10<sup>th</sup> November 2023, the Objector acknowledged that the deceased had other beneficiaries but he only cited Festus Bett by virtue of being the eldest son. It has also come out clearly from the pleadings and it was undisputed that both the Objectors and the Petitioners lived on the suit land, now KERICHO/KAITET/1781 and KERICHO/KAITET/1782. From the above, it is my finding that the Objectors and the deceased were not strangers to each other but most importantly, the Objectors were the deceased’s children hence bonafide beneficiaries.

26. I have looked at the pleadings and noted that the Petitioner petitioned for Letters of Administration Intestate in relation to the deceased’s estate in his capacity as a purchaser and Festus Kibet in his capacity as a beneficiary. The Objectors

have raised serious reservations about the Petitioner's alleged ownership of the suit parcel. It is trite that this court does not have jurisdiction to determine the issues resolving the ownership of the suit parcel as the same is vested with the Environmental and land Court.

27. That said, the Objectors attached a Judgment in **Mathew Rono v Alfred Cheramgoi (2015) eKLR**, as "ECK-14" where the ELC court dismissed the Petitioner's claim of half share of the parcel land (KERICHO/KAITET/281). This to me was evidence that raised doubt as to the *locus standi* of the Petitioner in filing succession proceedings in relation to the deceased's estate that was known as KERICHIO/KAITET/281.

28. In addition to the above, the Petitioner's conduct in dealing with the succession proceedings reeked of malice. I say so because the Petitioner stated that he lived on KERICHO/KAITET/1781 while Festus Bett (as a trustee on behalf of the Objector) occupied KERICHO/KAITET/1782. The

Petitioner did not attach any evidence to support this claim. However, the Petitioners attached contradicting evidence by attaching Official Search Certificates for KERICHO/KAITET/1782 and KERICHO/KAITET/1781 as “ECK-12a” and “ECK-12b” respectively. The Search Certificates indicated that both parcels of land were registered in the Petitioner’s name. This was contrary to the assertion by the Petitioner that KERICHO/KAITET/1782 was owned by Festus Bett as a trustee on behalf of the Objectors. The Objectors as it is, are at the mercy of the Petitioner.

29. Flowing from the above, it is clear to me that the process that was used to acquire the Grant was tainted by malice, non-disclosure and misrepresentation. The Petitioner failed to inform the court of the existence of all beneficiaries of the deceased’s estate and he further misled the court about the true status of the suit land. Further, as I have noted above, the *locus standi* of the Petitioner in petitioning for Letters of Administration Intestate in relation to the deceased’s estate was impugned. The sum total of the above is that the

Petitioner's malice, non-disclosure and misrepresentation fell within the ambit of **section 76 of the Law of Succession Act**. The Grant dated 13<sup>th</sup> February 2018 is hereby revoked.

30. The question that follows is what happens to the titles of KERICHO/KAITET/1781 and KERICHO/KAITET/1782. In other words, can a probate court cancel the said titles? In **Santuzzabilloti alias Mei Santuzza (deceased) vs Giancarlo Felasconi (2014) eKLR**, the court held: -

***“This cannot be the case as the succession court has powers to order a title deed to revert to the names of a deceased person. This in effect amounts to cancelation of the title deed. Further, a succession court can order a cancelation of title deed if a deceased's property is being fraudulently taken away by non beneficiaries such as where the property is being sold before a grant is confirmed.”***

31. Similarly, in re **Estate of Leah Wangui Nding'uri (Deceased)** [2020] KEHC 5505 (KLR), Wendoh J. held: -

*“In this case, the respondents filed this cause and brought themselves under the provisions of the Law of Succession Act. The grant that was issued to the respondents was revoked. It means that, all actions taken by the respondents including the registration of the deceased’s property in their names was rendered a nullity..... this court has jurisdiction to order cancelation of the said titles so that the land can revert back to the deceased’s names.....”*

32. Further, in re **Estate of Muturi Katumuta** [2022] KEHC 2396 (KLR), Gitari J. held: -

***“In succession matter, the High Court has jurisdiction to issue any orders including cancellation of title deeds where the grant is revoked.”***

33. Flowing from the above, the answer is in the affirmative; this court has power to cancel the titles to the parcels of land known as KERICHO/KAITET/1781 and KERICHO/KAITET/1782.

34. In the end, I make the following orders: -

I. The Grant dated 13<sup>th</sup> February 2018 and confirmed on 29<sup>th</sup> May 2019 is revoked.

II. The titles to the parcels of land known as KERICHO/KAITET/1781 and KERICHO/KAITET/1782 are cancelled and the same revert to mother title being KERICHO/KAITET/281.

III. Costs are awarded to the Objectors.

**Ruling delivered, dated and signed at Bomet this 27<sup>th</sup> Day  
of April, 2026.**

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

**JUDGE**

**Ruling Delivered in the presence of;**

**Susan/Siele Court Assistant**

**Rono for the Respondent**