



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of the Late John Kimeli Korir alias J Kimeli A Korir (Deceased)
(Succession Cause 163 of 2008) [2025] KEHC 724 (KLR) (30 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 724 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 163 OF 2008
JK SERGON, J
JANUARY 30, 2025**

BETWEEN

ERNEST KIPNGENO MUTAI 1ST APPLICANT

ANDREW KIPKOECH MUTAI 2ND APPLICANT

JOSEPH KIPRONO MUTAI 3RD APPLICANT

AND

RODA CHEPKURUI KORIR PETITIONER

RULING

1. The application coming up for determination is a chamber summons dated 18th December, 2024 seeking the following prayers;
 - i. Spent
 - ii. That the 1st, 2nd and 3rd Applicants herein, Ernest Kipngeno Mutai, Andrew Kipkoech Mutai and Joseph Kiprono Mutai be included as additional administrators together with Roda Chepkurui Korir as the legal representatives of the estate of John Kimeli Korir alias J. Kimeli A. Korir (deceased) and proceed to administer the estate.
 - iii. That the grant of administration intestate P&A 41 issued on 29th May, 2014 to one Roda Chepkurui Korir who is now 94 years old and incapable of administering the estate be re-issued in the names of Roda Chepkurui Korir, Ernest Kipngeno Mutai, Andrew Kipkoech Mutai and Joseph Kiprono Mutai respectively.
 - iv. That the certificate of confirmation of grant P&A 54 issued on the 30th June, 2015 be re-issued in the names of Roda Chepkurui Korir, Ernest Kipngeno Mutai, Andrew Kipkoech Mutai and Joseph Kiprono Mutai respectively so as to administer the estate.



- v. That such other and/or further direction be given by this honourable court to meet the ends of justice.
- vi. That the costs of this application be in the cause.
2. The application is based on the grounds on the face of it and the supporting affidavit of Ernest Kipngeno Mutai the 1st Applicant herein with the full authority of the 2nd and 3rd Applicant herein.
3. The applicant avers that the certificate of confirmation of grant was issued on the 30th June, 2015 to Roda Chepkurui Korir the Petitioner herein who is now 94 years of age and is incapable of administering the estate due to her old age and now senile and therefore owing to the condition and advanced age additional administrators are required to administer the estate of the deceased.
4. The applicant avers that it is therefore in the interests of justice that the certificate of confirmation be rectified and the applicants Ernest Kipngeno Mutai, Andrew Kipkoech Mutai and Joseph Kiprono Mutai be included as administrators alongside Roda Chepkurui Korir to assist her to finalize the process of administering the estate of the deceased.
5. The applicant avers that there is impending litigation of encroachment on part of the estate.
6. The applicant avers that they will faithfully administer the estate of the deceased which by law devolves to and vests in the personal representatives for use and benefit of the heirs of the estate of the deceased and render a just and true account as required by the law.
7. The matter came up for inter partes hearing and Mr. Kiletyen, the learned counsel for the applicants, reiterated that the application was not contested.
8. Having considered pleadings and oral submissions, the sole issue for determination by this court is whether to rectify the certificate of confirmation dated 30th June, 2015 and the applicants Ernest Kipngeno Mutai, Andrew Kipkoech Mutai and Joseph Kiprono Mutai be included as administrators alongside Roda Chepkurui Korir to assist her to finalize the process of administering the estate of the deceased.
9. The probate court is vested with the inherent power to entertain any application and determine disputes under the *Law of Succession Act* and grant orders that may be necessary for the ends of justice. Section 47 of the *Law of Succession Act* states that; “The High Court shall have jurisdiction to entertain any application and determine any dispute under this Act and to pronounce such decrees and make such orders therein as may be expedient; Provided that the High Court may for the purpose of this section be represented by Resident Magistrates appointed by the Chief Justice.” whereas Rule 73 of Probate and Administration Rules provides that: “Nothing in these Rules shall limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”
10. This Court finds the application dated 18/12/2024 to be meritorious. The Application is allowed. Consequently, the certificate of confirmation dated 30th June, 2015 is hereby amended and the applicants are hereby appointed as co-administrators of the estate of the deceased alongside the petitioner herein to assist her to finalize the process of administering the estate of the deceased.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 30TH DAY OF JANUARY, 2025.

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J.K. SERGON

JUDGE



In the Presence of:-

C/Assistant – Rutoh

Kiletyen for the Applicants

