



**In re Estate of Maina Timgut (Deceased) (Succession Cause  
54 of 2008) [2025] KEHC 1237 (KLR) (26 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1237 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
SUCCESSION CAUSE 54 OF 2008  
JK SERGON, J  
FEBRUARY 26, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE MAINA TIMGUT (DECEASED)**

**BETWEEN**

**RICHARD KIPKEMOI TONU I ..... APPLICANT**

**AND**

**ELIZABETH CHEBII MAINA ..... 1<sup>ST</sup> RESPONDENT**

**PHILIP BETT ..... 2<sup>ND</sup> RESPONDENT**

**GRACE CHELANGAT MARITIM ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The application coming up for determination is a chamber summons dated 10th June, 2019 seeking the following orders;
  - (i) That the grant of representation issued to the said Richard Kipkemoi Tonui in this cause on the 31st day of July, 2013 be implicitly honoured by the Respondents all of who have been registered as the absolute owners which the court ordered them to hold in trust for other specific beneficiaries.
  - (iii) That the court be pleased to make such orders or give such directions as it shall deem just and expedient.
  - (iv) That the costs of this application be provided for.
2. The application is supported by the grounds on the face of it and the supporting affidavit of Richard Kipkemoi Tonui the Petitioner/Applicant.
3. The Petitioner avers he is the legal administrator of the estate of the deceased.



4. The Petitioner avers that this court issued a rectified certificate of grant in respect to the estate of the deceased dated 31st July, 2013 whereby the Respondents were registered as absolute owners of portions of land belonging to the estate of the deceased to hold in trust and that the said Respondents refused and/or reneged to distribute the said portions to the the respective beneficiaries.
5. The Petitioner avers that he was therefore seeking this court’s intervention to have the said Respondents directed and/or ordered to distribute the portions which were to be held in trust to the respective beneficiaries as follows;
  - a. The 1st Respondent, Joel Arap Ngeno, David Ngeno, Dina Rotich, Juliana Chepkemoi and Ednah Chebet to each receive zero decimal eight seven five (0.875) of an acre
  - b. The 2nd Respondent, Stanley Bett, Robert Bett, Chepkemoi Mercy, Chepkoech Caroline and Chesang Florence each to receive zero decimal eight seven five (0.875) of an acre
  - c. The 3rd Respondent, David Sang, Rose Chebet, Purity Cheron, Everlyne Cherotich, Gilbert Sang and Dorcas Chepngeno zero decimal seven five (0.75) of an acre
6. The Petitioner avers that all the beneficiaries have attained the age of majority, including those that were minors then and that they are now capable of managing their own affairs.
7. I have considered the application which is unopposed and I find that the sole issue for determination is whether to give orders compelling the Respondents to transfer the portions of the estate of the deceased which were to be held in trust to the respective beneficiaries.
8. In the instant application, this court has been moved by the administrator of the estate of deceased who is desirous to complete the distribution of the estate, the Law of Succession Act makes provision for the duties of an administrator, section 83(i) of the Law of Succession Act provides as follows:- “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.” It is the finding of this court that this application is properly before it and that the instructive provisions being section 47 of the Law of Succession Act which provides 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” and Rule 73 of the Probate and Administration Rules provides as follows:- “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.” These legal provisions give the Probate and Administration Court a wide berth to exercise discretion to issue orders which are necessary in the interest of justice and prevent abuse of the process of the court. The enhanced jurisdiction is necessary to give the court powers to ensure that the estate of the deceased is ascertained and the rightful beneficiaries identified and given their inheritance.
9. The upshot of the foregoing is that the application dated 10th June, 2019 is allowed as follows: -
  - (i) The estate of the deceased to be distributed as per the rectified certificate of grant dated 31st July, 2013 and the respondents are hereby ordered to transfer the portions of the estate property which were held in trust to the respective beneficiaries as follows;
    - (a) Elizabeth Chebii Maina (the 1st Respondent) to transfer portion of the estate of the deceased held in trust to Joel Arap Ngeno, David Ngeno, Dina Rotich, Juliana Chepkemoi and Ednah Chebet to each receive zero decimal eight seven five (0.875) of an acre



- (b) Philip Bett ( the 2nd Respondent) to transfer portion of the estate of the deceased held in trust to Stanley Bett, Robert Bett, Chepkemoi Mercy, Chepkoech Caroline and Chesang Florence each to receive zero decimal eight seven five (0.875) of an acre
- (c) Grace Chelangat Maritim (the 3rd Respondent) to transfer portion of the estate of the deceased held in trust to David Sang, Rose Chebet, Purity Cheronno, Everlyne Cherotich, Gilbert Sang and Dorcas Chepngeno each to receive zero decimal seven five (0.75) of an acre.
- (d) Each party to meet his or her own costs.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 26TH DAY OF FEBRUARY, 2025.**

.....

**J.K. SERGON**

**JUDGE**

In the Presence of:-

C/Assistant – Rutoh

No Appearance for the Parties

