



**Chebii & another v Barmasai (Succession Cause 28 of 2007)
[2025] KEHC 3775 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3775 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 28 OF 2007
RN NYAKUNDI, J
MARCH 27, 2025**

**IN THE MATTER OF THE ESTATE OF CHEBII TETO
BARNABA KERING CHEBII**

BETWEEN

BARNABA KERING CHEBIII 1ST PETITIONER

JOEL CHEBII 2ND PETITIONER

AND

WILLIAM KANGOG BARMASAI OBJECTOR

RULING

1. The Application before court is on review and amendment of summons of confirmation of grant dated 30.1.2025 to grant the following orders:
 - a. The grant of letters of administration made to Barnaba Kering Chebii and Joel Chebii on 11.8.2002 be and is hereby amended by replacing the Deceased administrator Joel Chebii with William Kangogo Barmasai and a fresh grant issued in favour of Barnaba Kering Chebii and William Kangog Barmasai which application is based on the following grounds:
 - i. That a period of more than six months has since elapsed since the said grant was issued.
 - ii. That one of the administrators passed on and there have never been any substitution
 - iii. It is now necessary that the said grant be amended and subsequently confirmed to empower the distribution of the deceased's capital assts.
 - iv. The objection that was in place has since been determined in favour of the objector/ applicant herein



- v. That no objection is pending whatsoever in respect to this cause.
2. The application is supported by an affidavit dated 30.1.2025 which states as follows:
 - i. That on 11.8.2002, the Honourable court granted the letters of Administration intestate to Barnabas Kering Chebii and Joel Chebii as evidenced herewith (See annexure marked WKB-1)
 - ii. That the 2nd Administrator Joel Chebii passed on as evidenced vide the court proceedings
 - iii. That on 1.12.2020 the court determined my objection and awarded me 5.0 Acres of Land parcel known as Uasin Gishu/Elgeyo Boarder scheme /278 as evidenced vide the decree of the court dated 12.4.2023 (See annexure marked WKB-2)
 - iv. That the court referred the matter to mediation as per the decree stated above
 - v. That at the mediation, no agreement was reached hence the matter was referred back to the trial court.
 - vi. That all the efforts to have the matter finalized have been frustrated by the petitioner/ Administrator and his family at large hence there is no possible future point to agree
3. As seen the factual background of this case as supported by an affidavit the deceased person passed on sometime back and a grant of letters of administration was instituted way back in 1989. Unfortunately for reasons which are not very clear the beneficiaries have been litigating over and over again without finalizing the distribution of the identified free estate of the deceased. This abuse of the court process is unacceptable for it infringes on the inheritance rights of other beneficiaries. The record shows that during dependency of the litigation the matter was referred to mediation but nothing of significance was achieved. It is also crystal clear from the record various Judges of the High Court have presided over the proceedings with an objective of issuing certificate of confirmation of grant but the administrators could not hear of it but maintained their quest for justice within the interlocutory framework.
4. For example On 1st day of December 2020 this court being presided over by Githinji J pronounced himself as follows: “ Likewise in this matter the objector bought 5 Acres of land from the petitioners deceased mother. He was placed in occupation and has been in occupation since 1989. He has also developed part of his portion of land. Failure by the petitioners to include him as an interested party to the Estate of Chebii Tito amounts to concealment from court of something material to the cause. I therefore find the objection to the grant filed on 24.10.2007 merited. Having found so, and considering that this is an old matter that needs be settled soonest possible, mediation process should be undertaken where interest of the objector can be met and the grant rectified, instead of annulling the same. The mediation registrar is to kick start the process.
5. In the cause of the proceedings, Joel Chebii and Banaba Kering Chebii were appointed as administrator 11.8.2002 but for reasons which are not very clear from the record they have not discharged their legal obligations in a timely manner. The records also reveals that Joel Chebii has since passed on necessitating this court to invoke Section 76 of the *Law of Succession Act* as read with Section 80 of the *Civil Procedure Act* and Order 45 Rule 1 of the Civil Procedure Rules and further the provisions of Rule 73(1) of the Probate and Administration Rules to revoke his appointment forthwith and have the grant of letters of administration amended with an order of substitution with Barnaba Kering Chebii and William Kangogo Barmasai.
6. The amended grant be issued with a cautionary statement that the newly appointed administrators proceed diligently within 30 days from todays date to provide leadership to ensure confirmation of



grant takes effect. It is very sad that an estate of this magnitude since 1989 the deceased's beneficiaries are yet to receive their entitlement as required by law.

7. Therefore, I hereby order as follows:

- a. That the administrators to discharge their obligations by effecting distribution of the property constituting the deceased estate to the beneficiaries within the aforesaid period from the date of this ruling.
- b. That upon failure by the administrators to discharge their legal obligations by the end of the period captioned above the grant of intestate estate shall cease to be in force.
- c. That upon the grant of letters of administration intestate ceasing to be in force on the period mentioned above any of the beneficiaries of the deceased estate or a relative or any fit person like the County District Commissioner Uasin Gishu working with the Department of Public Trustee be granted leave to petition for grant of letters of administration of the deceased's estate who shall in turn proceed diligently to distribute the estate with finality and render accounts under Section 83(g) of the *Law of Succession Act*
- d. Status Conference on 27.5.2025
- e. It is so ordered

GIVEN UNDER THE SEAL OF THIS COURT AND PUBLISHED ON 27TH DAY OF MARCH 2025.

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R. NYAKUNDI

JUDGE

