



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Lokoligur Lokimoi - Deceased (Succession Cause
48 of 2016) [2025] KEHC 7106 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7106 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
SUCCESSION CAUSE 48 OF 2016**

RPV WENDOH, J

MAY 29, 2025

IN THE MATTER OF ESTATE OF LOKOLIGUR LOKIMO I – DECEASED

BETWEEN

JAMES LOKOLIGUR LOKIMO I PETITIONER

AND

CHEPOKORIO LOKOLIGUR OBJECTOR

RULING

1. The summons dated 12/10/2024 is filed by the petitioner, James Lokoligur Lokimoi. He seeks the following orders;
 1. That the County Surveyor West Pokot do visit land parcel No. West Pokot /Keringet B/5 to establish the exact acreage on the ground;
 2. That the OCS Keringet Police Station to provide security for the Surveyors visit.
 3. Costs of the application be costs in the cause.
2. The application is premised on grounds found in the body of the application, affidavit of the applicant of even date and a supplementary affidavit dated 28/1/2025.
3. It is the applicant's contention that the subject parcel, West Pokot Keringet 'B'/5 forms part of the deceased's estate; that although the title deed indicates that it measures 24.0 Hectares (59.34 Acres), on the ground is about 200 acres; that the exact acreage needs to be established to enable a fair distribution of the estate; that it will also enable the Administrator to apply for confirmation having distributed the shares fairly. According to the applicant, the objector will not suffer any prejudice and that it is in the best interest of justice that survey is done.



4. The application was vehemently opposed by the Respondent. She gave a history of the land; that the subject land is registered in her husband's name and that when she got married in 1957, she was settled on the said parcel of land and demarcation was done in 1983; that the subject land was demarcated alongside West Pokot/Keringet B/2 measuring 15 Ha; that parcel B/2 was registered in the name of her step son the petitioner because he had attained the age of majority while B/5 remained in her husband's names and it is the portion she has occupied; that the acreage of the land is indicated in the title as 59.34 acres which is the same as land on the ground and what the applicant wants is a fishing expedition; that the orders are meant to delay the process of confirmation of grant; that she is eight five (85) years and would pray that this matter be brought to a conclusion.
5. Both parties filed submissions in which they reiterated the contents of their affidavits. The subject land West Pokot/Keringet B/5 is said to have been demarcated way back in 1983 and title was issued. The land is Said to measure twenty-four (24) hectares or about 59.34 acres. Before the title was issued, demarcation was done meaning that the area on the ground should reflect that in the title. This is not a process that was undertaken by the objector to conceal the acreage.
6. Section 83 of the *Laws of Succession Act* provides for duties of personal representatives of an estate. Both the applicant and Respondent are the personal representatives of the subject estate.
7. The section provides, *in alia*,

" Duties of personal representatives - personal representatives shall have the following duties-
(a) – (d)
(e) within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and full and accurate account of all dealings therewith up to the date of the account."
8. It is clear from the above provision that the administrators have a duty to ascertain and file the full inventory of all the deceased's property. I believe the inventory includes identities of the property and the acreage. In this case, though a title which is a legal document issued by the Government of Kenya the applicant doubts the acreage, it is only proper that the same be ascertained now. Even if the Survey is not done at this stage, after confirmation of grant, before the actual distribution, the actual acreage and the situation on the ground will have to be ascertained. This application should not however be used to delay the determination of this cause.
9. For the above reason alone, I find that there is no prejudice that will be suffered by the Respondent if the order sought is granted. The applicant alleges that on the ground, the subject land is about two hundred (200) acres instead of 59 acres. It seems unbelievable. However, if it turns out to be the truth, the discrepancy in the acreage would be alarming. For the reason that it is the applicant who doubts the acreage of the land, I direct that the applicant personally meets the costs of the survey. The cost may be refunded to him from the estate if his allegation is found to be the truth.
10. I therefore direct that
 - i. The County Surveyor West Pokot to undertake the Survey of the subject land, West Pokot/Keringet B/5 to determine the acreage on the ground and file his report within thirty (30) days hereof.
 - ii. The applicant will personally bear the costs of the Survey.
 - iii. The OCS Keringet to oversee the exercise.



iv. Costs be in the cause.

DELIVERED, DATED AND SIGNED AT KAPENGURIA THIS 29TH DAY OF MAY, 2025

R. WENDOH

JUDGE

Ruling delivered in the presence of: -

Applicant – Mr. Nyamu

Respondent -Ms. Chebet

Juma/Hellen – Court Assistants

