



In re Estate of the Late Paul Kiplangat Soi (Deceased) (Succession Cause 18 of 2009) [2025] KEHC 7502 (KLR) (29 May 2025) (Ruling)

Neutral citation: [2025] KEHC 7502 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 18 OF 2009**

JK SERGON, J

MAY 29, 2025

IN THE MATTER OF THE ESTATE OF THE LATE PAUL KIPLANGAT SOI (DECEASED)

BETWEEN

SOPHIA CHEPKOECH SOI PETITIONER

AND

GLADYS CHELANGAT SOI PETITIONER

AND

GILBERT KIPNGETICH LANGAT RESPONDENT

RULING

1. The application coming up for determination is a chamber summons dated 11th October, 2024 seeking the following orders;
 - (i) That this Honourable Court be pleased to grant an order of cancellation and rectification of the Ministry of Lands Bomet lands register by replacing the name of Alice Cheronso Soi (Deceased) with the names of the beneficiaries as listed in the Rectified Certificate of Confirmation of Grant dated 8th May, 2023.
 - (ii) That any other relief that the Court will be pleased to issue in the circumstances.
 - (iii) That cost of the application be in the cause.
2. The application is supported by the grounds on the face of it and the facts deponed in the supporting affidavit of Sophia Chepkoech Soi 3rd petitioner/ applicant herein.
3. She avers that vide an Order of this Court issued on 30th November, 2016, a Grant of Letters of Administration were granted to her and Gladys Chelangat Soi And Gilbert Kipngetich Langat and



- that the said Grant effectively cancelled the Grant of Letters of Administration which had been issued to her late Co-Wife Alice Cherono Soi (deceased).
4. She avers that the turn of events is confirmed by the Application of her Co-Petitioners dated 31st January, 2023 and filed in Court on 11th February, 2023 and a Rectified Certificate of Confirmation of Grant was issued by this Court on 8th May, 2023.
 5. She avers that her efforts to register the Rectified Certificate of Confirmation of Grant at the Lands office in Bomet have been futile as the register indicates that the registered proprietor is Alice Cherono Soi (deceased).
 6. She avers that the Land Registrar Bomet County advised that an order be issued by this Court for the cancellation of the names of Alice Cherono Soi (deceased) in the register to be replaced by the beneficiaries indicated in the Rectified Certificate of Confirmation of Grant dated 8th May, 2023.
 7. Gladys Chelangat Soi the 1st petitioner/respondent filed a replying affidavit in response to the application in which she vehemently opposed the Application to amend the land register at Bomet to read the beneficiaries names as suggested in the Application.
 8. She avers that the nature of the Application made is aimed and intended to subdue and overtake the Appeal pending before the Court of Appeal at Nakuru being an Appeal number E027 of 2024 between the Respondents and the Applicant involving the subject matter of the Application.
 9. She avers that the subject of the above-mentioned Appeal is the land in question which the Applicant herein wants to rectify the name. The intended rectification if allowed will render the Appeal nugatory and moot. This is well within the knowledge of the Applicants herein.
 10. She avers that the Application as filed does not even list the intended beneficiaries that the land/title should be registered under making it vague in terms and therefore the application is not made in good faith and is intended to shortchange other beneficiaries of the estate as in the confirmed grant of 8th May, 2023.
 11. She avers that a cursory perusal of the grant confirmed on the 8th May, 2023 reveals the beneficiaries of the referenced land, the Respondents herein, were generally included as the administrators so as to protect the interest of the 2nd house and that as evident from the said grant, that parcel was purely given to the 2nd house, and in any circumstance, they should be the ones pushing for its rectification and/or subdivision.
 12. She avers that the application is mischievous and unmerited and an abuse of the court's process and should be dismissed with orders as to cost to the Respondent.
 13. Sophia Chepkoech Soi 3rd petitioner/ applicant herein filed a further replying affidavit having read the replying affidavit of Gladys Chelangat Soi sworn on 30th January, 2025.
 14. She avers that Gladys Chelangat Soi in the said affidavit has conveniently avoided to concede to the averments in her affidavit sworn in support of her application dated 31st January 2023 and filed in court on 11th February 2023.
 15. She avers that ground No. 1 of the said application reads; That Alice Cherono Soi (deceased) named in the certificate of confirmed grant dated 24th September, 2021 as the administrator was substituted by Gladys Chelangat Soi, Gilbert Kipngetch Langat And Sophia Chepkoech Soi vide letter of administration dated 30th November, 2016.



16. She avers that the averments of the affidavit referred to in the preceding paragraph clearly supports the instant application.
17. She avers that it is on the basis of orders emanating from the application by Gladys Chelangat Soi And Gilbert Kipngetich Langat that she made the instant application.
18. She avers that the application dated 29th August, 2023 filed by Gladys Chelangat Soi and her brother was dismissed by this court on 8th February, 2024.
19. She avers that no appeal was preferred against the said ruling of 8th February, 2024 and that the memorandum of appeal referred to in the replying affidavit of Gladys Chelangat Soi is meant to mislead this court as her lawyers have not been served with the purported appeal which in any event does not bear a case number.
20. She avers that what has been served on her lawyers is a record of Appeal dated 29th October, 2024 which indicates that it is Civil Appeal No E027 of 2024 and that the index of the said record of appeal does not indicate the page containing a memorandum of appeal.
21. She avers that it is in the interest of justice that the orders sought be granted as it is clear the respondents are hell bent on delaying the conclusion of the distribution of the estate and due execution of court orders.
22. The court directed the parties to file written submissions
23. The respondents complied and filed submissions and reiterated that this court delivered a ruling on an application dated 31st January 2023 and being dissatisfied with the said ruling the respondents lodged an appeal vide a memorandum of appeal dated 13th October 2023 being Appeal Number E027 of 2024 and that the subject matter of the above mentioned appeal is the land in question which the applicant herein wants to rectify the name and further that the intended rectification if allowed will render the appeal pending before the Court of Appeal at Nakuru being appeal number E027 of 2024 nugatory and moot.
24. The respondents contended that the impugned rectified certificate of confirmation of grant having been issued on the 8th May 2023 in the absence of the Respondents who only got to know of the same after service of the letter from the surveyor on or about August 2023 and in light of the dismissed application, the Respondent has now appealed on being Nakuru Court of Appeal No E027 of 2024.
25. The respondents reiterated that it is as evident from the said grant that the parcel of land was purely given to the 2nd house and in any circumstances, they should be the ones pushing for its rectification and/or subdivision.
26. The respondents argued that the foregoing it is in the interest of justice that the instant application brought before this honourable court be dismissed to preserve the appeal and to avert the respondents from incurring substantial loss.
27. I have considered the application, response and submissions and I find that the issue (s) for determination are whether to grant an order of cancellation and rectification of the Ministry of Lands Bomet lands register. On one part, the Petitioner/Applicant maintains that in order to complete the distribution of the estate of the deceased and to comply with the orders of this court, she visited the Land Registrar, Bomet County to register the Rectified Certificate of Confirmation of Grant dated 8th May, 2023 who advised that an order be issued by this Court for the cancellation of the names of Alice Cheronon Soi (deceased) in the register to be replaced by the beneficiaries indicated in the Rectified Certificate of Confirmation of Grant dated 8th May, 2023. On the other part, the Petitioner/



Respondent decried the cancellation and rectification of the register citing the fact that there is an appeal pending before the Court of Appeal at Nakuru being an Appeal Number E027 of 2024 between the Respondents and the Applicant involving the subject matter of the Application. William Musyoka, in his book, *Law of Succession*, Law Africa 2006 at page 115 notes that the provisions of Section 47 of the *Law of Succession Act* gives court wide discretion in dealing with testamentary and administrative issues, section 47 of the *Law of Succession Act* vests court with wide discretion in granting protective powers for purposes of safeguarding the estate of a deceased person. It provides: “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.” Similarly, rule 73 of the *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.” The aforementioned rule saves the inherent powers of the court to prevent abuse of the court process and to meet the ends of justice.

28. It is apparent the order sought intend to cancel the name of one Alice Cherono Soi (deceased) as the registered proprietor of the parcel of land known as Kericho/Kipsonoi/251. It is clear that the order is being sought without involving the estate of Alice Cherono Soi. It would appear that at the time of making the application for rectification of the Certificate of Confirmation of Grant, it was not disclosed that the name of Alice Cherono Soi had been put in the register. The order cannot be granted without the estate of Alice Cherono Soi, deceased being heard. This Court is not convinced that this is the right file to make such application. There is an averment that the instant application is being made to defeat an appeal pending before the Court of appeal. This Court cannot contenance such conduct.
29. In the end, this Court finds the application to be without merit. The same is hereby dismissed. Since the dispute involves members of the same family, I direct that each party meets its own costs.

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

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J.K. SERGON
JUDGE

In the Presence of:-

C/Assistant – Rutoh

Okok for the Respondent

Mburu holding brief for Mitey for the Petitioner

