



**In re David Kibor Ragut (Deceased) (Succession Cause  
254 of 2007) [2025] KEHC 9084 (KLR) (25 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9084 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 254 OF 2007  
RN NYAKUNDI, J  
JUNE 25, 2025**

**IN THE MATTER OF THE ESTATE OF THE LATE DAVID KIBOR RAGUT (DECEASED)**

**BETWEEN**

**PHILEMON KIPTANUI SITIENEI ..... APPLICANT**

**AND**

**JOEL RAGUT ..... 1<sup>ST</sup> RESPONDENT**

**MILKA RAGUT ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**VIVO ENERGY KENYA LIMITED ..... INTERESTED PARTY**

**RULING**

1. This is a Status Conference arising out of a series of applications and determinable rulings made by the various Judges who have been ceased of this litigation in which the parties are yet to comply with the transmission of the estate. This Court alone has delivered the Ruling dated 14<sup>th</sup> February 2025, subsequent one dated 11<sup>th</sup> April 2025 and one dated 28<sup>th</sup> March 2025 and yet the beneficiaries are agitating for justice.
2. It is not lost by this Court from the record that initially a Grant of Letters of Administration was issued to Milka J. Rugut and Joel Rugut on 14<sup>th</sup> April 2008. Thereafter, a series of applications were filed seeking various variations to the substratum of the entire suit. The significant decision in this matter was by dint of the ruling of an application dated 26<sup>th</sup> September 2019 and on the 16<sup>th</sup> December 2019 in which Githinji J pronounced himself as follows:
  - a. That the Applicant be and is hereby appointed as the administrator and the petitioners ordered to render an account of the income from the estate.



- b. That further affidavit be sworn listing the assets and liabilities of the estate.
  - c. That the beneficiaries to agree on the mode of distribution after all the information has been provided.
3. In the interim, from a forensic audit of proceeds from a leased property of David Kibor Rugut (Deceased) Eldoret Municipality 1/163 dated 28<sup>th</sup> July 2023, there is no clear evidence that this forensic audit has found its way to the overall distribution matrix of the estate by inquiring as to its fairness, expediency, equity, transparency, inclusivity and proportionate in advancing the letter and spirit of the *Law of Succession Act*.
4. It is unfortunate that the beneficiaries have urged the various forums to impeach the appointment of the administrators under section 66 of the *Law of Succession Act*. From the record, on 26<sup>th</sup> October 2021, the Grant of Letters of Administration Intestate were issued to Ruth Jepkorir Bor and Nathaniel Kimeli Bor to undertake faithfully to administer such estate according to the law and to render a just and true account thereof whenever required by the law to do so. This litigation did not stop there. On 1<sup>st</sup> February 2022, a Grant of Letters of Administration Intestate was again issued to Philemon Kiptanui Sitienei. This did not end the issue of appointment of administrators for on 28<sup>th</sup> March 2022 there seems to have been an amendment to the Grant of letters of administration issued to Philemon Kiptanui Sitienei by inserting an additional administrator by the name Joel Rugut. In the turn of events, an application once again was made to amend the Grant of Letters of Administration leading to a further amendment to the Grant on 11<sup>th</sup> April 2025 and the following administrators were appointed; Philemon Kiptanui Sitienei and Joel Cheruiyot Rugut, Obadiah Kiplagat Bor and Julia Jepkorir Rugut to undertake faithfully to administer such estate in accordance with the law and to render a just and true account thereof whenever required by law to do so.
5. Prima facie this record depicts an abuse of court process, which refers to the improper use of legal procedures to harass the Court in the context and text of filing various actions repeatedly, re-litigating the same issues or concealing information from the Court. In terms of section 1A, 1B, 3A of the *Civil Procedure Act* and Rule 73 of *Probate and Administration Rules*, the Court has inherent power to prevent and address such abuses to maintain the integrity of the legal system. The abuse of process doctrine allows courts to strike out an administrator, a pleading, notice of motion etc. filed under the guise of seeking a just remedy but whose overall outcome compromises trial fairness or causes ongoing prejudice to the integrity of the justice system. The test used to determine whether the misconduct of a party warrants a remedial action consist of these requirements;
  - a. There must be prejudice to the integrity of the justice system which will be perpetuated by the conduct of a party or a litigant to a trial or proceedings and the same does adequately impact on the outcome.
  - b. There must be an alternative remedy capable of redressing prejudice.
  - c. Finally, the Court must balance the need to denounce the misconduct of a litigant or a party in order to preserve the integrity of a justice system against societies interest on adjudicating the case on its merits.
6. These proceedings raise serious questions on the conduct of the parties which offends society's sense of fair play and decency in the administration of justice. How on earth the court was made to issue a series of Grant of Letters of Administration at various forums, seasons based on a valance of applications turned on similar facts and for purposes of the context of section 66 of the *Law of Succession Act* shows Applicants who have a pattern of abusing the process of the Court. This was indeed a waste of time and



resource which was not being properly utilized. This case serves as a help of reminder that courts must be careful and be vigilant against applicants bringing claims or summons where there is not intent on pursuing the sense of justice.

7. This abuse of the court process calls upon this court to remedy the record and strike out certain Grant of Letters of Administration by invoking a range of circumstances including inherent power for the retention of the Grant of Letters of Administration Intestate as issued cannot be left to stand as they constitute an abuse of the process of the Court. The Learned authors of *Bullen & Leake & Jacobe* [18<sup>th</sup> Edition] provide some guidance in this regard. They make the following observation at page 148 of their book; “The term “abuse of process of the Court” is a term of great significance. It connotes that the process of the court must be carried out properly honestly and in good faith; and it means that the court will not allow its function as a court of law to be misused but will in a proper case, prevent its machinery from being used as a means of vexation or oppression in the process of litigation. It follows that where an abuse of process has taken place, the intention of the court by the stay or even dismissal of proceedings “although it should not be lightly done, yet it may often be required by the very essence of justice to be done.”
8. It follows therefore that the following orders shall abide;
  - a. That the following Administrators Philemon Kiptanui Sitienei and Joel Cheruiyot Rugut, Obadiah Kiplagat Bor and Julia Jepkorir Rugut be and are hereby summoned to attend Court and show cause why some of them should not be struck out as Administrations under section 76 of the *Law of Succession Act* for their conduct of not participating in the court process in accordance with the law.
  - b. That an order be and is hereby made for the Interested Party Vivo Energy Kenya Limited to deliver to Court on executive summary of the entire cash receivables in respect of the lease Agreement entered as against Eldoret Municipality/Block 1/163 with effect from 5<sup>th</sup> May 2015.
  - c. That a further order be and is hereby made of restraining Vivo Energy Kenya Limited from depositing any lease amount as stipulated in the Lease Agreement in the account presumably being operated by Milka Jeptarus Rugut and Joel Cheruiyot Rugut until further orders from this Court.
  - d. That an order be and is hereby made to Milka Jeptarus Rugut and Joel Cheruiyot Rugut to attend court and adduce evidence on oath the cash receivables from Vivo Energy Kenya Limited with effect from 5<sup>th</sup> May 2015 together with expended moneys to the maintenance of the assets or more significantly a summary of the sharing of the resources between the beneficiaries in The Matter of the Estate of David Kibor Rugut (Deceased).
  - e. That a declaration be and is hereby made that the earlier order in the Certificate of Confirmation of Grant with regard to LR Eldoret Municipality/Block 1/163 on its purported sale of the intestate estate in which Vivo Energy Kenya Limited signed a lease with the lessors Milka Jeptarus Rugut and Joel Cheruiyot Rugut be revoked as the same has been compromised by the leasehold agreement and therefore void.
  - f. That the current Administrators who shall be retained by this Court in the next status conference undertake to open a mutually acceptable account to sustain in the interim the funds receivable from the leasehold agreement with Vivo Energy Kenya Limited.



- g. A declaration is hereby made that apportionment of the cash receivables from the Vivo Energy Kenya Limited be forensically accounted for and any fraudulent action laid to bear any administrators so found culpable be held accountable for the loss.
- h. That a declaration be and is hereby made that fair play inclusivity, transparency and accountability be the hallmark in the administration of the assets in the Matter of the Estate of David Kibor Rugut (Deceased) so as not to occasion prejudice and injustice in the whole of the litigation context.

It is against a backdrop of the above said orders that will form the basis of the status conference to be held on the 10<sup>th</sup> July 2025. It is for this reason that this orders are to be shared with every beneficiary, administrators and legal counsels on record in this litigation. For avoidance of doubt, this orders have been issued without any prejudice as it relates to grievances that can be properly ventilated before the court on 10<sup>th</sup> July 2025 and in consonant with section 1A, 1B, 3A of the [Civil Procedure Act](#) and Rule 73 of the Probate and Administration Rules. It is so ordered.

**GIVEN UNDER THE HAND AND SEAL OF THIS COURT ON THIS 25<sup>TH</sup> JUNE 2025**

.....

**R. NYAKUNDI**

**JUDGE**

