



In re Estate of Chumo Arap Chabas alias Chumo Chebas (Deceased) (Succession Cause 157 of 2003) [2025] KEHC 11520 (KLR) (31 July 2025) (Ruling)

Neutral citation: [2025] KEHC 11520 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 157 OF 2003**

JK SERGON, J

JULY 31, 2025

**IN THE MATTER OF THE ESTATE OF CHUMO ARAP
CHABAS ALIAS CHUMO CHEBAS (DECEASED)**

BETWEEN

WILLY KIPKEMOI RONO 1ST APPLICANT

PAUL KIPTONUI NGENO 2ND APPLICANT

AND

WILLIAM KIPTERER BII 1ST RESPONDENT

JOHN KIPKEMOI CHABAS 2ND RESPONDENT

RULING

1. The application coming up for determination is a summons for revocation and/or annulment of grant dated 23rd December, 2024 seeking the following orders;
 - (i) Spent
 - (ii) Spent
 - (iii) That rectified certificate of confirmation of grant issued by the Honourable court on 8th May 2023 be revoked on the following grounds;-
 - (a) That the grant was obtained fraudulently by means of untrue allegation of fact.
 - (b) That the grant was obtained by untrue allegation of a fact essential in a point of law to justify the grant and that the Petitioner failed to disclose to court that the Objectors who are the bonafide dependents of the deceased was entitled to the estate of the deceased and not the Petitioner as he is not a beneficiary therein whatsoever.



- (c) That the proceedings to obtain the grant were defective in circumstance.
 - (d) That during the pendency of this succession cause, Respondents herein used a defective certificate of confirmation of grant dated 16th July 2013 and subdivided and transferred the estate land namely KERICHO/KIPCHIMCHIM/1057 to non-beneficiaries and some other genuine beneficiaries and excluded others thereby transmitting the same fraudulently therein.
- (iv) That the Honourable court be pleased to order for cancellation of subdivision of estate land namely KERICHO/KIPCHIMCHIM/1057, namely resultant numbers KERICHO/KIPCHIMCHIM/6019, 6020, 6021, 6022, 6023,6024, 6025, 6026, 6027,6028,6029,6030,6031,6032,6033 and 6034 and any other further subdivision of the estate land aforesaid and the same be restored in the said original number KERICHO/KIPCHIMCHIM/1057 bearing the names CHUMO CHABAS (the deceased herein).
2. The application is supported by grounds on the face of it and an affidavit in support of the application sworn by Willy Kipkemoi Rono the 1st applicant herein with the authority of the 2nd applicant
 3. He states that he is among the Administrators of the estate of the late Chumo Arap Chabas alias Chumo Chebas the deceased herein and attached a copy of Letters of Administration.
 4. He states that during the pendency of this succession cause matter and after a series of rectification of certificate of confirmed grant, the Respondents herein vide operation of the first certificate of confirmation of grant dated 16th July 2013, fraudulently subdivided estate land namely Title Number KERICHO/KIPCHIMCHIM/1057 into several subdivisions and registered the same to a non-beneficiary by the name JASWINDER SING AMARJIT SING SENMI and other beneficiaries.
 5. It is his statement that the said estate land formerly known as KERICHO/KIPCHIMCHIM/1057 measuring 7.2 Ha was not distributed equitably among the beneficiaries of the estate of the said deceased and that the Respondents have filed an application dated 20th September, 2024 directing the Deputy Registrar of this Honourable court to execute transmission forms to effect final distribution of the estate of the deceased in compliance to yet another rectified certificate of confirmation of grant dated 8th May, 2023 he annexed a copy of the said Chamber Summons in which the Applicants in the said application purport that he refused to sign the transfer forms to effect a defective final distribution of the estates of the deceased therein.
 6. He contends that the Respondents purport to distribute an estate land namely KERICHO/KIPCHIMCHIM/1057 which is no longer in existence due to the said illegal subdivisions and transfer.
 7. It is further his contention that the Respondents further rectified the Certificate of Confirmation of grant dated 8th May 2023 without the consent of the beneficiaries of the estate of the deceased and thereby altered the mode of distribution of the estate of the deceased in the new rectified confirmed grant without consent of the beneficiaries of the estate deceased.
 8. It is therefore his contention that in the circumstances, the rectified certificate of confirmation of grant dated 8th May 2023 and the previous several grants were obtained fraudulently by means of untrue allegations of fact and therefore that the rectified certificate of grant dated 8th May 2023 be revoked and/or annulled and a proper agreed mode of distribution be made and moreso, the illegal subdivision and transfer of estate land known as KERICHO/KIPCHIMCHIM/1057 be revoked and the same be restored to the names of the deceased herein.
 9. Paul Kiptonui Ngeno one of the co-administrators of the estate of the deceased filed a replying affidavit in opposition to the summons for revocation with the consent of the 1st and 2nd respondent herein.



10. He states that he was shocked to note that the application is supported by an affidavit sworn by the 1st applicant with his purported authority, he confirmed that he neither authorised the 1st applicant herein to file the instant application and/or instructed the firm of M/s Tengekyon and Company Advocates to file the said application.
11. He asserts that the summons for revocation of grant are an afterthought having been brought 12 years after the confirmation of grant and that the said Willy Kipkurui Rono being one of the administrators of the estate participated in the succession proceedings.
12. He further asserts that the application for revocation has been interposed to frustrate and/or delay the distribution of the estate of the deceased as directed by the court vide rectified certificate of confirmation of grant.
13. It is his assertion that he and the respondents have diligently administered the estate of the deceased whereas the applicant has persistently undermined the succession proceedings since its inception.
14. He affirms that land parcel KERICHO/KIPCHIMCHIM/1057 was subdivided on 5th August, 2013 and the same was carried pursuant to the certificate of confirmation of grant dated 16th July, 2013 and whereas the applicant alleges that they subdivided the said parcel and transferred it one JASWINDER SING AMARJIT SING SENMI, the applicant and other beneficiaries sold of their beneficial share to the estate to the said JASWINDER SING, he attached a copy sale agreement.
15. He therefore was adamant that the applicant has not met the conditions set out under section 76 of the Law of Succession Act antecedent to the court exercising its power to revoke a grant.
16. The application came up for inter partes hearing and parties were directed to file written submissions.
17. At the time of writing this ruling the applicant had not uploaded submissions on the case tracking system.
18. The respondents filed submissions in which they reiterated that the summons for revocation of Grant is unmerited and misconceived. The respondents contend that the grant was procured procedurally and further assert that the applicant has not met the conditions set out under section 76 antecedent to the court exercising its power to revoke a Grant. It is also the Respondents' argument that in any event, the discretion granted to the court by virtue of section 76 does not apply to certificates of confirmation of grant. They relied on the case of In re Estate of Kimani Gathu alias Gathu Kimani - Deceased (Succession Cause 4 of 2019) [2024] KEHC 2772 (KLR) (19 March 2024) (Ruling) where the Learned Judge in dismissing the application seeking revocation of the Certificate of confirmation of Grant aptly stated that:-

“Having considered the instant application, the sole issue for determination by this court is whether to revoke and/or annul the certificate of confirmation of grant (rectified) dated 6th May, 2022. The answer is in the negative. The applicant maintains that the grant was confirmed by the petitioner by means of untrue allegations, deliberate omissions and concealment of material facts and therefore ought to be revoked. The petitioner/respondent has not filed a response to the application for revocation and/or annulment. *In re Estate of Juma Shitseswa Linani (Deceased)* [2021] eKLR the court held that where a person is unhappy with the process of confirmation of grant, such a person ought not to move the court under section 76 for revocation of grant. Instead, the person should file an appeal against the orders made by the court on distribution or apply for review of the said orders.



This is because the court confirming a grant largely becomes functus officio so far as confirmation of the grant is concerned, and cannot revisit the matter unless upon review.”

19. I have considered the application, replying affidavit and written submissions and find that the issue for determination whether to revoke the rectified certificate of confirmation of grant issued by the Honourable court on 8th May 2023 and cancel the subdivision of estate land namely KERICHO/KIPCHIMCHIM/1057.
20. On whether to revoke the rectified certificate of confirmation of grant issued by the Honourable court on 8th May 2023, this court has considered the arguments by the respective parties and finds that the applicant has not met the conditions set out under section 76 of the *Law of Succession Act* antecedent to the court exercising its power to revoke a grant. Section 76 was clearly expounded on by the court *In re Estate of Prisca Ong'ayo Nande (Deceased)* [2020] eKLR where it was stated that:

“Under section 76, a court may revoke a grant so long as the grounds listed above are disclosed, either on its own motion or on the application of a party. A grant of letters of administration may be revoked on three general grounds. The first is where the process of obtaining the grant was attended by problems. The first would be where the process was defective, either because some mandatory procedural step was omitted, or the persons applying for representation was not competent or suitable for appointment, or the deceased died testate having made a valid will and then a grant or letters of administration intestate was made instead of a grant of probate, or vice versa. It could also be that the process was marred by fraud and misrepresentation or concealment of matter, such as where some survivors are not disclosed or the Applicant lies that he is a survivor when he is not, among other reasons. The second general ground is where the grant was obtained procedurally, but the administrator, thereafter, got into problems with the exercise of administration, such as where he fails to apply for confirmation of grant within the time allowed, or he fails to proceed diligently with administration, or fails to render accounts as and when required. The third general ground is where the grant has become useless and inoperative following subsequent circumstances, such as where a sole administrator dies leaving behind no administrator to carry on the exercise, or where the sole administrator loses the soundness of his mind for whatever reason or even becomes physically infirm to an extent of being unable to carry out his duties as administrator, or the sole administrator is adjudged bankrupt and, therefore, becomes unqualified to hold any office of trust.”

This application does not meet the threshold for revocation and/or annulment of grant, the applicant has not disclosed any ground (s) warranting this court’s intervention. In the case of *Albert Imbuga Kisigwa v Recho Kawai Kisigwa*, Succession Cause No.158 of 2000, Mwita J. made remarks on the guiding principles for the revocation of a grant. He stated;

“Power to revoke a grant is a discretionary power that must be exercised judiciously and only on sound grounds. It is not discretion to be exercised whimsically or capriciously. There must be evidence of wrongdoing for the court to invoke section 76 and order to revoke or annul a grant. And when a court is called upon to exercise this discretion, it must take into account the interests of all beneficiaries entitled to the deceased’s estate and ensure that the action taken will be for the interest of justice.”

It is noteworthy to point out that the summons for revocation as crafted by the applicant seemingly, challenge the distribution of the estate and not the process of issuing the grant itself.



21. Having found that the application does not meet the threshold for revocation and /or annulment of grant, there is therefore no need for this court to address itself on the cancellation of the subdivision and subsequent transfers of the estate land namely KERICHO/KIPCHIMCHIM/1057.
22. In light of the foregoing, the summons for revocation and/or annulment of grant dated 23rd December, 2024 is without merit. It is dismissed. Each party to meet their own costs.

DELIVERED, SIGNED AND DATED AT KERICHO THIS 31ST DAY OF JULY, 2025.

J.K. SERGON

JUDGE

In the Presence of:-

C/Assistant - Rutoh

Miss Sang for the 1st & 2nd Respondent

Koske for the Applicant

