



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

Where Legal Information is Public Knowledge

In re Estate of the Late Jonathan Kiplangat Kalya (Deceased) (Succession Cause 197 of 2015) [2025] KEHC 11496 (KLR) (31 July 2025) (Ruling)

Neutral citation: [2025] KEHC 11496 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
SUCCESSION CAUSE 197 OF 2015**

JK SERGON, J

JULY 31, 2025

**IN THE MATTER OF THE ESTATE OF THE LATE
JONATHAN KIPLANGAT KALYA (DECEASED)**

BETWEEN

**ALICE CHEMUTAI KANDIE 1ST APPLICANT
REBBY CHEPNGENO MARANDA 2ND APPLICANT
MARTHA CHEPKORIR KALYA 3RD APPLICANT
NANCY CHERONO KALYA1ST 4TH APPLICANT
VIVIAN CHELANGAT LANGAT 5TH APPLICANT**

AND

**STEPHEN KIPNGETICH LANGAT 1ST PETITIONER
JULIUS K LANGAT 2ND PETITIONER
JAMES K LANGAT 3RD PETITIONER**

AND

RICHARD KIPLANGAT LANGAT RESPONDENT

RULING

1. There are three applications coming up for determination contemporaneously; a notice of motion dated 24th February, 2025 seeking to have this court enforce the certificate of confirmation of grant issued and dated 3rd July, 2023, a notice of motion dated 10th March, 2025 filed by the petitioners seeking to set to set aside the mediation agreement entered on 31st May, 2023 together with the certificate of confirmation of grant dated 3rd July, 2023 on account that Kericho/Ketarwet/718 was



left out of the mediation agreement and finally a notice of motion dated 4th April, 2025 by the applicants seeking enforcement of the certificate of confirmation of grant issued and dated 3rd July, 2023.

2. In the notice of motion dated 24th February, 2025, the applicants are seeking the following orders;
 - (i) That the Deputy Registrar of the High Court of Kenya Kericho be authorized to sign all relevant Land Control Board forms and all necessary transfer (transmission) forms in place of the Respondents Stephen Kipngetch Langat, Julius K. Langat and James K. Langat for effective transfer and vetting of shares upon the beneficiaries in accordance with the certificate of confirmation of grant issued and dated 3rd July, 2023
 - (ii) That upon execution by the Deputy Registrar of this Honourable Court of completion documents the same be deemed as sufficient instruments for completion/transfer documents.
 - (iii) That an order directing the Land Registrar, Kericho County to dispense with the production of copies of national identity cards, KRA PIN certificate and passport size photographs of the Respondents Stephen Kipngetch Langat, Julius K. Langat and James K. Langat for the purpose of executing transfer/transmission documents.
 - (iv) That an order be and is hereby issued directing the O.C.S Kabartegan Police Station to provide security to the District Surveyors to survey and demarcate the shares of the beneficiaries in the land parcels Kericho/Kabartegan/242, Kericho/Kabartegan 93, Kericho/Kabartegan 231, Kericho Kabartegan/243, Kericho/Getarwet/718 and Kericho/Getarwet/611 the certificate of confirmation of grant dated 3rd July, 2023.
 - (v) That the costs of this application be borne by the Respondents.
3. The application is supported by grounds on the face of it and an affidavit in support of the application sworn by Martha Chepkorir Kalya the 3rd applicant on behalf of her co-applicants who are daughters/beneficiaries of the estate of the deceased.
4. She attests that the grant of letters of administration in respect to the estate of the deceased was made to the 1st, 2nd and 3rd respondents on 25th February, 2016, the beneficiaries were directed to proceed to court annexed mediation by consent and parties arrived at a mediation settlement agreement dated 31st May, 2023 and the same was adopted as an order of the court and a certificate of confirmation of grant dated 3rd July, 2023 as per the terms of the mediation settlement agreement.
5. She attests that the surveyor had scheduled a visit to the estate properties to conduct the survey process to enable distribution as per the terms of the confirmed grant, however, the respondents refused to grant access of the properties and further that the respondents have attempted to evict her from her apportioned parcel of land with the aim and intent of disinherit her.
6. She further attests that she had tried reaching out to the respondents to sign the land control board consent forms, transmission documents and to avail the necessary documents for the transmission and vesting of shares of the estate properties to the beneficiaries but they invariably declined.
7. She is therefore adamant that considering the obstinacy and hostility displayed by the respondents there is need to have security provided where the estate properties are situated to ensure that surveyors are able to survey the properties and demarcate the shares of the beneficiaries.
8. She maintains that the respondents are in breach and continue to flaunt their duties as administrators under the provisions of section 83 (g), (h) and (i) of the Law of Succession Act by refusing to finalize the



- distribution of the estate and that the law anticipates the conduct of such individuals and provides a remedy is section 49 of the Law of Succession and rule 73 of the Probate and Administration Rules.
9. Stephen Kipngetich Langat the 1st respondent/petitioner filed a replying affidavit on behalf of the petitioners in response to the application dated 24th February, 2025.
 10. He deposes that it is not true that they have refused to comply with the orders of this court as alleged by the applicants and further to this no consultations were made in respect to survey of the estate properties or mutation forms shared with them for execution.
 11. He further deposes that it had come to their attention that on the mediation settlement one property was omitted without their knowledge and that they tried to reach the applicants to review the mediation settlement agreement to include the said property but the same was in vain.
 12. It is further his deposition that the applicants have on occasions indicated their need and desire to set aside the mediation settlement agreement, hence the need to hold in abeyance any implementation of the mediation agreement until all issues are resolved and parties arrive at a consensus of the distribution of the vast estate of the deceased.
 13. The petitioners of the estate of the deceased filed a notice of motion dated 10th March, 2025 filed seeking the following orders;
 - (i) Spent
 - (ii) Spent
 - (iii) That this honourable court be pleased to set aside the mediation agreement entered on 31st May, 2023 together with the certificate of confirmation of grant dated 3rd July, 2023 and/or review the same.
 - (iv) That costs be borne by the respondents.
 14. The application is supported by grounds on the face of it and an affidavit in support of the application sworn by Stephen Kipngetich Langat the 1st petitioner.
 15. He contends that not all parcels of land are were included in the mediation settlement agreement to wit Kericho/Ketarwet/718 and therefore there is good and sufficient cause for setting aside the mediation settlement agreement and the certificate of confirmation of grant dated 3rd July, 2023 and all consequential orders.
 16. Martha Chepkorir Kalya the 1st respondent filed a replying affidavit on behalf of the co-respondent in response to the application dated 10th March, 2025.
 17. She avers that the allegation that Kericho/Ketarwet/718 was not included in the mediation agreement is not only a misrepresentation of facts, it was untenable when read along the mediation settlement agreement, she annexed a copy of the mediation settlement agreement and further that all parties had agreed to the terms of the mediation agreement and appended their signatures,
 18. She further avers that the application for setting aside the mediation agreement does not meet the required threshold as there are no vitiating factors for setting aside the mediation settlement agreement dated 31st May, 2023.
 19. It is her averment that the application is a testament that the petitioners are unwilling and/or uncooperative on actualization of the terms of the mediation settlement agreement which was



- endorsed by this court and which terms are reflected on the certificate of confirmation of grant dated 3rd July, 2023.
20. The applicants filed another application dated 4th April, 2025 similar in form and substance to the one dated 24th February, 2025 the only variance being the orders sought which are as follows;
- (i) That the Deputy Registrar of the High Court of Kenya Kericho be authorized to sign all relevant Land Control Board forms and all necessary transfer (transmission) forms in place of the Respondents Stephen Kipngetch Langat, Julius K. Langat and James K. Langat for effective transfer and vetting of shares upon the beneficiaries in accordance with the certificate of confirmation of grant issued and dated 3rd July, 2023
 - (ii) That upon execution by the Deputy Registrar of this Honourable Court of completion documents the same be deemed as sufficient instruments for completion/transfer documents.
 - (iii) That an order directing the Land Registrar, Kericho County to dispense with the production of copies of national identity cards, KRA PIN certificate and passport size photographs of the Respondents Stephen Kipngetch Langat, Julius K. Langat and James K. Langat for purpose of executing transfer/transmission documents.
 - (iv) That an order directing the Land Registrar, Nakuru County to dispense with the production of copies of national identity cards, KRA PIN certificate and passport size photographs of the Respondents Stephen Kipngetch Langat, Julius K. Langat and James K. Langat for purpose of executing transfer/transmission documents.
 - (v) That an order be and is hereby issued directing the O.C.S Kabartegan Police Station to provide security to the District Surveyors to survey and demarcate the shares of the beneficiaries in the land parcels Kericho/Getarwet/718, Kericho/Kabartegan/243, Kericho/Kabartegan 231, Kericho/Kabartegan 93, Kericho/Getarwet/611, Kericho Chemosot/Plot No. 1 and Kericho/Chemosot/242 as the certificate of confirmation of grant dated 3rd July, 2023.
 - (vi) That an order be and is hereby issued directing the O.C.S Elburgon Police Station to provide security to the District Surveyors to survey and demarcate the shares of the beneficiaries in the land parcel Nakuru/Elburgon/ArimiNdoswaBlock6/26 as per the certificate of confirmation of grant dated 3rd July, 2023.
 - (v) That the costs of this application be borne by the Respondents.
21. The application is supported by grounds on the face of it and an affidavit in support of the application sworn by Martha Chepkorir Kalya the 3rd applicant on behalf of her co-applicants who are daughters/beneficiaries of the estate of the deceased.
22. The applications came up for inter partes hearing and the learned counsel for the applicants stated that there were two application coming up for hearing and determination; a notice of motion dated 24th February, 2025 and a notice of motion dated 10th March, 2025 and that the applicants had filed another application dated 4th April, 2025 and that there was no response to the same and that the said application remains unopposed. There was no representation on the part of the petitioners/respondents.
23. I have considered the applications and responses find that the issues for determination are whether to set aside the mediation agreement entered on 31st May, 2023 together with the certificate of confirmation of grant dated 3rd July, 2023 on account that Kericho/Ketarwet/718 was left out of the mediation agreement and enforce the certificate of confirmation of grant issued and dated 3rd July, 2023



24. On the issue as to whether to set aside the mediation agreement entered on 31st May, 2023 together with the certificate of confirmation of grant dated 3rd July, 2023 on account that Kericho/Ketarwet/718 was left out of the mediation agreement.
25. This court has considered the respective arguments by the parties and finds that the assertion that Kericho/Ketarwet/718 constituting the estate of the deceased was not included in the mediation agreement is a misrepresentation of facts, this court has carefully studied the mediation agreement and it is this court's finding that the said property is listed on the mediation agreement dated 31st May, 2023.
26. It is further the finding of this court that the applicants have not disclosed any vitiating factors warranting the setting aside the mediation settlement agreement dated 31st May, 2023. Therefore the application dated 10th March, 2025 is hereby dismissed.
27. On the issue as to whether to enforce the certificate of confirmation of grant issued and dated 3rd July, 2023, this court notes that the application dated 4th April, 2025 is similar in form and substance to the one dated 24th February, 2025. The only variance being the orders sought to enforce the certificate of confirmation of grant. The orders in the application dated 4th April, 2025 are more conclusive as the applicants have sought for enforcement of the certificate of confirmation in respect to the properties of the deceased which are situated in Kericho and Nakuru Counties.
28. The applicants are adamant that the petitioner/respondents have neglected and/or failed or refused to grant surveyors access of the estate properties and have further refused to execute transmission documents and are therefore in breach and continue to flaunt their duties as administrators under the provisions of section 83 (g), (h) and (i) of the Law of Succession Act by refusing to finalize the distribution of the estate.
29. The primary mandate of administrators is to distribute the estate of the deceased within six (6) months as per the provisions of section 83(g) of the Law of Succession Act.
30. In Kerugoya Succession Cause No. 36 of 2013, Re Estate of Wilfred Munene Ngumi (deceased) [2020] eKLR where the court stated: " Section 83 (g) of the Act mandates administrators of an estate to, within six months of confirmation of grant or longer period as the court may allow, complete the administration of the estate, and to produce to the court a full and accurate account of the complete administration."
31. It is evident that the administrators of the estate of the deceased are in flagrant violation of the provisions of section 83 (g) the certificate of confirmation of grant having been issued on 3rd July 2023. The probate court has ample powers donated to it by section 47 of the Law of Succession Act and Rule 73 of the Probate and Administration Rules to resort to, in order to meet the ends of justice.
32. In the end,
 - a. The Notice of Motion dated 4th April, 2025 is hereby allowed giving rise to issuance of the following Orders:-
 - (i) That an order is hereby made for the administrators to comply with section 83 of the Law of Succession Act to sign, execute, endorse and facilitate implementation of the certificate of confirmation of grant.
 - (ii) If the administrators fail to comply with this order, the Deputy Registrar of this court is authorized to sign/execute all the necessary documents to effect the transfer



of property forming the estate to the beneficiaries to give effect to the certificate of confirmation of grant issued on 3rd July 2023.

- b. Motion dated 10th March, 2025 is found to be without merit. It is dismissed.
- c. The application dated 24th February, 2025 is ordered struck out since it seeks near similar orders sought in the application dated 4th April, 2025.
- d. Each party to bear 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

Kiletyen for the Applicant

No Appearance for the Respondent

