



REPUBLIC OF KENYA



**In re Estate of Kipchirchir Arap Chepchoi (Deceased) (Succession Cause 199 of 2010) [2025] KEHC 11879 (KLR) (7 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 11879 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 199 OF 2010  
RN NYAKUNDI, J  
AUGUST 7, 2025**

**IN THE MATTER OF THE ESTATE OF KIPCHIRCHIR ARAP CHEPCHOI (DECEASED)**

**BETWEEN**

**JAMES CHERUIYOT LAGAT ..... PETITIONER**

**AND**

**LABAN KIPROP CHIRCHIR ..... APPLICANT**

**RULING**

1. This is a Ruling on the Summons dated 10<sup>th</sup> March, 2025 brought under Section 76, *Law of Succession Act* Cap 160 and Rule 44(1) of the *Probate and Administration Rules*. The orders on the face of the Application are;
  - a. Spent.
  - b. That the proceedings to obtain the grant and the subsequent confirmation were defective in substance and the Applicant being the son of the deceased was not involved in the proceedings. He was left out and has therefore been deprived of his interest and entitlement as a son/defendant/beneficiary of the estate of the deceased.
  - c. That there be stay of further proceedings and execution of any orders and all registration and applications obtained and or made.
  - d. That the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of facts that are material to the case. The proceedings were fraudulent inter-alia for reasons that the respondent intentionally concealed from court the fact that the applicant was the son to the deceased.
  - e. The grant was obtained by means of untrue allegations of facts essential in a point of law to justify the grant.



- f. That the grant of letters of administration and the certification of confirmation obtained be revoked and annulled.
  - g. That the costs of these proceedings be borne by the Petitioner/Respondent.
2. The Application is made on the following grounds;
- a. That the proceedings to obtain the grant and the certificate of confirmation were defective in substance.
  - b. That the grant was obtained fraudulently by making of false statement or by the concealment from the court of something material to the case.
  - c. That the grant obtained by means of untrue allegations of fact essential in point of law.
3. The Application is supported by the annexed affidavit sworn by Laban Kiproop Chirchir, whose averments I have read and understood.
4. The Respondent who is the Petitioner filed his Replying Affidavit vehemently opposing the Application stating the following;
- a. That I am one of the Petitioners herein together with Philip K. Chirchir in the estate of the Kipchirchir Arap Chepchoi hence duly competent to swear this affidavit.
  - b. That I have read the Summons and Supporting Affidavit of Applicant, Laban Kiproop Chirichir and wish to respond as follows.
  - c. That the Applicant Application is an afterthought filed 15 years after we filed the succession and two (2) years after confirmation of grant.
  - d. That all family members are in acceptance of the process to the conclusion of the grant except the Applicant.
  - e. That the estate of our father was properly and fairly distributed equitable as per the wishes of our father and the family.
  - f. That the late Kipchirchir Arap Chepchoi had two (2) houses;
    - i. Tabarno Chirchir (Deceased) widow, 1<sup>st</sup> house
      - a) Mary Jepkoech Lagat Unmarried Daughter
      - b) James Cheruiyot Son
      - c) Christopher Kimitei Son
      - d) Jane Kiplagat married Daughter
      - e) Lily Chirchir Daughter Unmarried
    - ii. Tamining Chirchir(Deceased) widow, 2nd house
      - a) Grace Jepchumba Unmarried Daughter
      - b) Lina Jebiwott Unmarried Daughter
      - c) Robert Chirchir Son
      - d) Laban Chirchir Son



- e) Oscar Chirchir Son
- g. That the Late had two (2) other brothers; Kiptalam Chepchoi and Philip Chirchir same mother with Kiptalam Chepchoi but different mother with Philip Chirchir.
- h. That Philip Chirchir mother passed on when Philip Chirchir was very young and the Late Kipchirchir Arap Chepchoi took care of Philip Chirchir as his son, 10 educated him, circumcized and assisted him to marry.
- i. That though elder brother to Philip Chirchir, Philip was like his 'adopted son' having stayed with the Late till his demise.
- j. That the late had the following assets;
  - i. Kaptagat Settlement Scheme/189 23 acres
  - ii. Uasin Gishu/Kaptagat Lotonyok Block 2/41 28 acres
  - iii. Eigeiyo Bordcr/TuiyoIuk Block 1 1/93 8.13acres (jointly bought by the 3 - the Late, Kiptalam Chepchoi & Philip Chirchir) all brothers
- k. That the 1<sup>st</sup> house of Tabarno Chirchir and her children benefited from Uasin Gishu/Kaptagat Lotonyok Block 2/41 - 28 acres.
- l. That the 2<sup>nd</sup> house of Tamining Chirchir and all her children including the applicant benefited from Kaptagat Settlement Scheme/189 - 23 acres.
- m. That Elgeiyo Border/Tuiyoluk Block 11/93 - 8.13 acres were shared by o three partners (brothers) through their family members.
- n. That the 2<sup>nd</sup> family was included to the proceedings at the distribution stage having all along refused to participate in the proceedings.
- o. That before and after filing of the succession cause through the area chief, they refused Four (4) times to participate making us to proceed without them until late stage when they joined.
- p. That the Certificate of Confirmation of Grant as annexed by the Applicant is the most accurate distribution of the estate having every member on board.
- q. That the Applicant was present in court at the time of Confirmation end he did not oppose it. The Applicant has benefited with about 5.6 acres.
- r. That I pray his Application to revoke the grant be disallowed for it lacks merit.

## Decision

5. The Court is empowered to revoke the granted Letters of Administration of the Deceased's estate based on the prescribed grounds provided for in Section 76 of the *Law of Succession Act* as follows;
  - a. The proceedings to obtain the Grant were defective in substance.
  - b. The Grant was obtained fraudulently by making of a false statement or by the concealment from the Court of something material to the case.
  - c. The Grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the Grant notwithstanding that the allegation was made in ignorance or inadvertently.



- d. The personal representative has failed, after due notice and without reasonable cause either.
  - e. To apply for confirmation of Grant within one year from the date thereof, or such longer period as the Court order or allow.
  - f. To proceed diligently with the administration of the estate; or
  - g. Produce to the Court, within the time prescribed any such inventory or account which is false in any material particular.
6. In reviewing the proceedings, all the way as presided over by the various station Judges dating back to the Certificate of Confirmation of Grant issued on the 20<sup>th</sup> January, 2023 by Mokire J, I find no compelling provocative evidence that the Administrator in petitioning for Confirmation of Letters of Grant of Confirmation did so by means of untrue allegation of a fact touching on the rights of inheritance of the Applicant, Laban Kiprop Chirchir. There is prima facie evidence that the Applicant was recognized as one of the direct beneficiaries under Section 29 of the Law of Succession Act. I therefore find no evidence on the part of the Administrator that there was concealment of the material facts to render the proceedings in the making of the Grant of representation of the estate defective in substance as alleged by the Applicant.
  7. This is a dispute which cannot escape the two-edged sword of the doctrine of res judicata under Section 7 of the Civil Procedure Act, based on three maxims. First, that no man be vexed twice over the same cause. Secondly, that it is in the interest of the state that there should be an end to litigation and, thirdly, that a judicial decision must be accepted as correct.
  8. The Application on revocation lacks merit and it is therefore good for dismissal with no orders as to costs.

**DATED, SIGNED AND DELIVERED VIA EMAIL AT ELDORET THIS 7<sup>TH</sup> AUGUST 2025**

.....

**R. NYAKUNDI**  
**JUDGE**

