



REPUBLIC OF KENYA



In re Estate of Simon Koima Cheserk (Deceased) (Succession Cause 223”B” of 2007) [2025] KEHC 11807 (KLR) (7 August 2025) (Ruling)

Neutral citation: [2025] KEHC 11807 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 223”B” OF 2007
RN NYAKUNDI, J
AUGUST 7, 2025
IN THE HIGH COURT OF KENYA AT ELDORET
SUCCESSION CASE NO 223”B” OF 2007
IN THE MATTER OF ESTATE OF SIMON KOIMA CHESERK**

RULING

1. Before this court is chamber summons seeking the following orders:-
 - i. Francis K. Koima, Gideon K Koima & Joseph K. Koima be made the administrators of the estate of the late Simon Koima Chesere In Absence Of Flora Koima now deceased.
 - ii. The said Flora Koima was one of administrator in respect to the estate of the late Simon Koima Cheserek but has since died
 - iii. That upon grant of prayer (a) and (b) above the certificate of confirmation of grant dated 23rd February, 2012 be rectified in a manner as per the annexed proposed amended and mode of distribution.
 - iv. Costs of in the cause

Which Application is grounded on the annexed affidavit of Francis K. Koima

- i. Grant of letters of administration as issued to Flora Koima and Koima on 25th February 2008
 - ii. The said administrator died before the grant of letters of administration was confirmed
 - iii. It is vital to so rectify the confirmation of grant for it is incomplete as some assets were not indicated in the schedule to certificate of confirmation of grant
2. It is annexed by an affidavit which states as follows:-
 - i. That I am an adult of sound mind and the respondent herein therefore competent to swear this affidavit



- ii. That I am the surviving widow of the late Simon Koim Cheserek
- iii. That upon demise of my husband my co-wife Flora Koima now deceased and I applied for letters of administration and obtained grant of letters of administration to his estate (Annexed and marked “KK1” is a copy of the grant of letters of administration.
- iv. That the said Flora Koima died on 21.7.2020 before administering or distributing the estate (Annexed and marked KK2 is a copy of the death certificate
- v. That the said administrator died after obtaining confirmation in respect of the estate of the deceased and the substitution is necessary to facilitate the process
- vi. That it is the wish of family members that I and one of the deceased son Francis K Koima Gideon K Koima & Joseph K. Koima be made the administrators of the estate of the deceased.
- vii. That equally there is need to identify the individual shares of each beneficiary as per the schedule attached herein as annexure KK3.

DECISION

- i. In simple terms, on 30.11.2007, vided gazette Notice No. 11685 Flora Koima and Kimoi Koima were duly recognized as administrators to be issued with the grant of letters of administration to the estate of the deceased. The court acting on that Kenya Gazzette issued grant of letters of administration intestate to the two administrators dated 25.2.2008. The administrators having been vested with powers to administer the estate of the deceased, applied for confirmation of grant duly issued on 23.2.2012. This were the terms of the distribution matrix.



Name	Description Of Property	Shares
Flora Koima	A. Mosop/metkei/549 Measuring 4.8 Ha.	Whole to own on her behalf and in trust for the following: Francis K Koima, Recho J Cheserek, Joseph K. Koima, Philip K Koima, Toroitich Koima and Jerono Koima
Joshua Cheserek	B. Mosop/metkei/558 Measuring 5.6ha	Whole
Kimoi Koima	(C) Mosop/metkei/563	Whole to own on her behalf and in trust for the following: Wilfred K. Koima, Paul C. Koima, Gideon K. Koima, Kipsang M. Koima, Jepkosgi Koima, Joseph Koima, Lydia Koima, Kibiwott Koima and Jepkoech Koima
Flora Koima And Kimoi Koima	C. Baharini Settlnent Scheme Plot No 134	(whole To Be Registered I Their Joint Names (flora Koima & Kimoi Koima
Flora Koima And Kimoi Koima	Plot No 108 Kaisagat Scheme	To Share Jointly
Thomas Muthuri	(f) Plot No 108 Kaisagat Scheme	10 Acres
Thandei Chacha	Plot No 108 Kaisagat Scheme	10 Acres

3. In determining this dispute it appears the certificate of confirmation of grant has not been transmitted by the Administrators before the demise of Flora Koima. The letter and the spirit of the law on distribution is clearly reflected in the certificate of confirmation of grant. In the instant application brought under Rule 49 and 73 of Probate and Administration Rules, it appears that by the death by one of the administrators the grant obtained is inoperative unless and until there is a new co-administrator appointed to join the leadership role with Kimoi Koima under Section 66 of the *Law of Succession Act*. The application seems to be suggesting a complete new leadership team to administer the estate of the deceased and there seems to be no compelling evidence why Kimoi Koima should not be allowed to proceed and sign the necessary instruments to finalize the administration of the estate. The administrators during their tenure failed to complete administration of the estate which means the administration has not proceeded diligently so that the rights of inheritance can be passed on to the legitimate beneficiaries. In essence, even Kimoi Koima though being the surviving administrator, legally under Section 76 of the Law of the Succession Act, his appointment is also on the chopping board.
4. For purposes of administration of this estate, there is prima facie evidence that the grant so issued to the administrators has become useless and inoperative through subsequence



circumstances which have been cited elsewhere in this ruling. In conclusion, there is merit to revoke the grant specifically affecting the appointed administrators where one has passed on and the remainder Kimoi Koima is of advanced age and therefore, impaired to carry out the functions of an administrator.

5. I am therefore persuaded that a fresh grant in the name and style of the grant de bonis non administrators be issued to Francis K Koima, Gideon K Koima & Joseph K. Koima. This grant of letters of administration is issued for reasons that the initial personal representatives have not completed the administration of the estate as alluded to in the affidavit of the Applicants. This grant is limited to the purpose of administering and transmitting the shares to the beneficiaries. The issue being pleaded by Richard Kimugun should be looked at by the administrators for his name is not among those recognized in Form P&A 5 filed in court on 30.7.2007 by Flora Koima now deceased and Kimoi Koima. The Area Chief also wrote a letter dated 30.7.2007 listing all the beneficiaries eligible to inherit the estate as defined under Section 29 of the [Law of Succession Act](#) and apparently also in that record Richard Kimugun's name is also not captured as a beneficiary. Indeed, if this estate was administered according to law, given the timeline of 6 months, upon which the administrators are to complete the administration and thereafter proceed to liquidate the estate under Section 83 of the [Law of Succession Act](#) there would be nothing in the form of assets to entitle Richard Kimugun to seek leave of this court to revoke the grant under Section 76 of the [Law of Succession Act](#).
6. With regard to the instant Application, the new administrators are required by law to fill and file with the court form 86 & 87 for onward transmission to the government printer for gazette. The details in the forms required include: Name of petitioner, Date of death of deceased, Domicile of deceased, Date letters of administration issued, Name of the administrator sought to be replaced, Consent of other beneficiaries.
7. Once the dominated administrators comply with procedural law, the Deputy Registrar shall scrutinize the documents and have the matter forwarded to the principal Registry for purposes of gazette. If no objection is filed, the letters of administration shall be issued by this court.
8. The Status Conference to monitor compliance be and is hereby scheduled on 24.9.2025.
9. It is so ordered

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 7TH DAY OF AUGUST 2025

.....

R. NYAKUNDI

JUDGE

