



In re Estate of the Late Hellen Chepkosgei Kimrgor (Deceased) (Succession Cause 76'A" of 2010) [2025] KEHC 11664 (KLR) (4 August 2025) (Ruling)

Neutral citation: [2025] KEHC 11664 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 76'A" OF 2010
RN NYAKUNDI, J
AUGUST 4, 2025**

RULING

1. Before this court is an application dated 25.7.2025 seeking the following orders:-
 - a. The cautions registered by the objectors against all those titles comprised of Eldoret Municipality Block 2(King'ongo)3328, 3329, 330, 3331, 3332, 3333, 3334, 3335, 3336 and 3337 prior to the distribution be set aside and or reviewed to pave way for the registration of the transfer by transmission.
 - b. Costs of this application be in the cause
Which applicaiton is grounded on the grounds:-
 - i. The Applicants are the purchasers of all the parcels listed above
 - ii. That consent order was made between the parties on 26.9.2014 and adopted on 3.3.2015 by the court
 - iii. A grant of letters of administration (P&A 41) was issued to the Respondent on 11.5.2022
 - iv. A certificate of confirmation of grant was issued on 31.10.2022 recognizing the entitlement of the Applicant to the suit lands.
 - v. L.R A 39 and 42 transfer by transmission were executed by the Respondent in favor of the Applicant
 - vi. The Applicant had through their leader james mukuha kago registered cautions against all of the suit land and their attempt to remove the same at the lands office to pave way for their registration have failed.
 - vii. Its necessary that the court orders the land Registrar-Uasin Gishu where the register of all the suit lands in domiciled to remove the caution to pave way for transmission to the Applicant.



2. It is further annexed with the supporting affidavit which states as follows:-

- a. That I am a male adult of sound mind and a resident of Tairi Mbili within Eldoret City and one of the 11 objectors/applicant thus competent to swear this affidavit
- b. That there exists a grant and confirmation herein in favor of the applicants over LR Eldoret Municipality Block 21(King'ongo) 33328-3337-3337 see copies annexed and marked "PMN1 and 2
- c. That Prior to filling objection which led to the grant we had through our counsel registered cautions against all the suit lands. See samples annexed herein and marked "PMFN3(a) (b) (c) (d) (e) and (f)
- d. That the Petitioner/Administrator has signed all transfer instruments in favor of the objectors/ applicants but the lands registry is unable to register the same in favour of the applicants
- e. That I and the other applicants have through counsel tried to remove the cautions to no avail as the lands office insists, we either produce the cautioner or obtain court order to that effect
- f. That I have availed copies of the death certificate of the cautioner copy of which I annex and mark as "PMN4" to no avail
- g. That all the efforts to register the transmission to me and the other objectors have been rejected by the lands official which remarks that caution be removed by the court.
- h. That to wind up this estate the objectors require through this summons that the court lands its assistance by ordering the removed of the cautions since they have already served their purpose which as to safeguard the plots awaiting succession
- i. That What is stated to herein is true to the best of my knowledge, information and belief

Decision

3. This is a succession matter with a certificate of confirmation of grant duly issued under Section 71(1) of the Law of Succession Act. Essentially, for the shares to be transmitted to the beneficiaries the administrators must comply with the provisions of the Land Registration Act. In the first instance, the Applicant asserts that prior to the certificate of confirmation of grant, an application was made to enter a caution or a restriction against any intermeddlers with the suit land pending the probate administration. Section 2 of the aforesaid Act defines caution to mean a notice in the form of register to the effect that no action of a specific nature in relation to the land in respect of which the notice has been entered may be taken without first informing the person who gave the notice. In addition, Section 73(1) of the Act provides that caution may be withdrawn by the person who made the application for it to be entered in the register or by a court order directing the Land Registrar to so remove or withdraw the caution. In so far as intestate administration is concerned, Section 82(b) of the Law of Succession Act provides that no property shall be sold before the confirmation of grant. It is also true that the Land Registrar cannot register any subdivision of the immovable assets of the deceased without first removing the caution which is an encumbrance for any such compliance with the Land Registration Act.
4. With regard to this application, I am guided by the provisions of Rule 73(1) of the Probate and Administration Rules as read with Section 47 of the Law of Succession Act to make the following declarations on the issue of removal of caution earlier on entered in the register impairing any intermeddling on the estate. That The cautions registered by the objectors against all those titles



comprised of Eldoret Municipality Block 2(King'ongo)3328, 3329, 330, 3331, 3332, 3333, 3334, 3335, 3336 and 3337 prior to the distribution be set aside and or reviewed under Section 80 of the [Civil Procedure Act](#) and Order 45 Rule 1 of the [Civil Procedure rules](#) to pave way for the registration of the scheme of transmission and transfer of property rights to the legitimate beneficiaries.

5. It is so ordered.

GIVEN UNDER MY HAND AND THE SEAL OF THIS COURT THIS 4TH DAY OF AUGUST 2025

.....

R. NYAKUNDI

JUDGE

