

KENYA / JUDGMENT

# In re Estate of Marindich (Deceased)

## [2026] KEHC 11947 (KLR)

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COURT

High Court

BEFORE

AK Ndung'u

CASE / FILE NUMBER

Succession Cause E227 of 2025

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REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

SUCCESSION CAUSE NO. E227 OF 2025

IN THE MATTER OF THE ESTATE OF THE LATE JOSEPH KIPTUGOT MARINDICH (DECEASED)

THROUGH

RAEL CHEMUTAI MARINDICH

MARINDICH JELIMO PRISCAH

PEULAH CHEMELI MARINDICH

STEPHEN KIRWA SIRMA ..... PROPOSED PETITIONERS

RULING

1. Before the Court is the Notice of Motion dated 2nd July 2026 brought by the proposed petitioners seeking the following orders:
2. **That** this Honourable Court be pleased to order the Government Printer to amend Gazette Notice No. 18685 published on 19th December 2025 by deleting the name of **Elizabeth Jeptarus Marindich** as the proposed administratrix and substituting therefor the names of **Rael Chemutai Marindich, Marindich Jelimo Priscah, Peulah Chemeli Marindich and Stephen Kirwa Sirma** as the proposed administrators of the estate of the deceased.
- b. That the costs of the application be in the cause.

1. The application is premised on the grounds appearing on its face and is supported by the affidavit sworn by **Rael Chemutai Marindich** on 2nd July 2026. The substance of the application is that the deceased's widow, **Elizabeth Jeptarus Marindich**, who had initially petitioned for letters of administration and whose name was duly published in Gazette Notice No. 18685 of 19th December 2025, has since passed away before the petition could be finalized.
2. The applicants depose that they are beneficiaries of the estate of the deceased and that, following the demise of the proposed administrator, it has become necessary for the Gazette Notice to be amended to substitute her name with those of the proposed petitioners so as to facilitate the continued administration of the estate.
3. They further contend that unless the amendment is effected, the administration of the estate will remain at a standstill to the detriment of the beneficiaries. They maintain that the proposed substitution is necessary in the interests of justice, will facilitate the expeditious administration of the estate, and will occasion no prejudice to any person.
4. The affidavit in support reiterates the foregoing matters and urges the Court to invoke its jurisdiction to permit the substitution of the deceased proposed administrator in the Gazette Notice to enable the succession proceedings to proceed to their logical conclusion.
5. The Court record shows that by the time the application came up for hearing, Letters of Administration Intestate had already been issued. Consequently, the prayer seeking an order directing the Government Printer to amend Gazette Notice No. 18685 had ceased to serve any practical purpose.
6. The gazettelement contemplated under Rule 7(4) of the Probate and Administration Rules is intended to notify the public of the intended petition and afford any person wishing to object an opportunity to do so before a grant is issued. Once the statutory notice has served its purpose and the grant has been issued, the question ceases to be one of amending the Gazette Notice and instead becomes one of ensuring that the administration of the estate is undertaken by persons who are legally capable of acting as administrators.
7. The material placed before the Court demonstrates that the original Administrator, **Elizabeth Jeptarus Marindich**, is now deceased. It is therefore self-evident that she can no longer continue discharging the fiduciary duties imposed upon an administrator under the Law of Succession Act. The administration of the estate cannot remain in abeyance merely because the person to whom the grant was issued has passed away. The Court, as a court of succession, bears the obligation of ensuring that the administration of estates proceeds efficiently and that beneficiaries are not deprived of their entitlement by reason of procedural impediments.
8. The applicants are the children of the deceased and have deponed, without contradiction, that they are the only surviving beneficiaries of the estate. No objection has been lodged against their appointment, nor has any person come forward asserting a prior or superior

right to administer the estate. The Court is therefore satisfied that there exists complete unanimity amongst the beneficiaries regarding the proposed substitution. In those circumstances, appointing the applicants as joint administrators will neither prejudice any person nor alter the beneficial interests in the estate. It merely facilitates the continuation of the administration process.

9. The Court is guided by sections 47 and 66 of the Law of Succession Act, together with Rule 73 of the Probate and Administration Rules, which preserve the Court's inherent jurisdiction to make such orders as may be necessary for the ends of justice and to prevent abuse of the process of the Court. The overriding consideration in the exercise of that jurisdiction is to ensure that the estate of a deceased person is administered expeditiously, efficiently and in accordance with the law.
10. Where the original administrator dies before completing the administration of the estate, the Court is empowered to appoint a suitable replacement so that the administration may proceed to its logical conclusion.
11. In the present case, the substantive justice of the matter does not lie in directing the Government Printer to amend a Gazette Notice whose statutory purpose has already been fulfilled. Rather, it lies in ensuring that there are competent administrators vested with authority to continue administering the estate. The applicants, being the only beneficiaries and there being no opposition to their appointment, are the most suitable persons to assume that responsibility.
12. Accordingly, the Court finds merit in the application only to the extent necessary to facilitate the continued administration of the estate. The prayer for amendment of Gazette Notice No. 18685 is declined as having been overtaken by events. In its place, and for the ends of justice, the Court orders that **Rael Chemutai Marindich, Marindich Jelimo Priscah, Peulah Chemeli Marindich and Stephen Kirwa Sirma** be and are hereby substituted in place of the late **Elizabeth Jeptarus Marindich** and appointed as the joint administrators of the estate of the late **Joseph Kiptugot Marindich (Deceased)**. The Deputy Registrar shall make the necessary endorsements and consequential amendments to the court record and the grant to reflect the substitution.

DATED SIGNED AND DELIVERED IN COURT THIS 29TH DAY OF JULY 2026

A.K. NDUNG'U

JUDGE

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