

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

SUCCESSION CAUSE NO 344 OF 2013

IN THE MATTER OF THE ESTATE OF KIPUNYUNY ARAP MISOI

KIPLAGAT ARAP BARAIYWO.....1ST PETITIONER/ RESPONDENT

STEPHEN KIPKOECH KIBENEL.....2ND PETITIONER/RESPONDENT

VERSUS

JULIUS KIPKOECH CHEPKWONY (AS THE LEGAL REPRESENTATIVE

OF THE ESTATE OF SIGEI SAINA).....OBJECTOR/APPLICANT

RULING

1. A preliminary objection dated 22/07/2019 had been raised with regard to the status of the applicant in pursuing this matter on grounds that he had no *locus standi*, as the grant he sought to rely on as giving him authority to pursue this matter was revoked in **KAPSABET SUCCESSION CAUSE NO 57 OF 2012**. The applicant doubted the authenticity of the claim as the proceedings purported to emanate from Kapsabet Court were neither certified, nor did they bear the seal of that court, or the name of the magistrate.

2. Subsequently this court called for the original record from Kapsabet and I have perused the proceedings and confirm that there is a record in the court file dated 22/11/2018 showing that the grant was revoked. It would seem that the court had a practice of not indicating the name of the magistrate against the signature, nor would a court seal be embossed on the documents. Indeed, there is also a copy of the notice dated 25th October directed at the respondent, and it bears a similar signature with no name or seal. That pattern is repeated in Form P & A 41, so on the face of the record the grant was revoked, and the applicant has not shown any other document to demonstrate that he has locus to pursue this matter

3. Yet even if for argument's sake he were to be found to have locus as a legal representative of the estate of **SIGEI SAINA**, then he cannot purport to be an objector in this cause, and his proper forum for redress over the claim to land, would be before the Environment and Land Court. Consequently, I hold and find that the preliminary objection has merit and is upheld. The application filed herein is thus dismissed with costs to the respondents

Virtually Delivered and dated this 28th day of July 2020 at Eldoret

H.A. OMONDI

JUDGE

Mr Sambu present

Mr. Magut absent