

He allocated Loc 19/Gacharageini/419 to the Deceased and her children, and Loc 19/Gacharageini/422 to the house of his other wife, the Applicant's mother. Eventually that parcel came into the Applicant's name by way of succession.

5. The Administrator therefore denied that the Applicant was entitled to any portion of Loc 19/Gacharageini/418. She also pointed out that the applicant had sold off a portion of Loc 19/Gacharageini/422 and shared the remainder between his own two wives.

6. In a further affidavit filed on 25/02/2016, the Administrator gave a detailed history of the two parcels of land. In his turn the Applicant filed a supplementary affidavit on 04/07/2016 (sworn by his wife under a power of attorney) in which he gave his version of the history of the two parcels of land.

7. The summons for revocation of grant was canvassed by way of written submissions after the learned counsels appearing for the parties agreed that there was no issue of fact that could be legitimately tried by way of oral evidence by this succession court. The Applicant's submissions were filed on 29/11/2016 while those of the Administrator/Respondent were filed on 10/02/2017. I have duly considered those submissions.

8. When parties agree to dispose of a matter, like the present one, by way of submissions upon the affidavits on record, it means that the essential facts are not in serious dispute. The essential facts in the present case appear to be as follows-

(a) The Deceased herein, **Lupia Wacera Njara**, was the younger wife of Njara Gathii, the first wife being the mother of the Applicant **Kahindo Njara**.

(b) The father of Njara Gathii was called Mukuha Gathii. He had a brother called Mutahi Gathii. Each of them got a parcel of land in 1963 at the time of land consolidation and registration. The land that was to go to Mukuha Gathii was registered in the name of his son, Njara Gathii. This was parcel Loc 19/Gacharageini/418.

(c) Mutahi Gathii on the other hand got parcel Loc 19/Gacharageini/422.

(d) Both parcels were of comparable acreage.

(e) Mutahi Gathii apparently died without wife or issue. His land, parcel Loc 19/Gacharageini/422, went to the Applicant by way of transmission upon succession proceedings. It will be recalled that the Applicant was the son of Njara Gathii by his first wife Nduta Njara.

(f) With parcel Loc 19/Gacharageini/422 now being in the hands of the Applicant, his father, Njara Gathii's family comprising two wives and their children, now had two parcels of land, LOC.19/Gacharageini/418 and Loc 19/Gacharageini/422.

(g) It is thus not surprising that upon the death of Njara Gathii, the parcel of land in his name, Loc 19/Gacharageini/418, went to his second wife, Lupia Wacera Njara (the Deceased herein). After all, his first wife's household already had parcel Loc 19/Gacharageini/422 which was in the name of the first son of that household (the Applicant).

(h) It is also not surprising that nobody else from that first household (apart from the Applicant) has raised any claim to parcel Loc 19/Gacharageini/418.

(i) This is what a land disputes tribunal and a provincial appeals committee found in a case filed by the Applicant against the Deceased over the parcel. These findings were however subsequently set aside by the High Court upon the technicality of lack of jurisdiction.

9. In the circumstances, and upon the material now before the court, I do not find that the confirmed grant herein was obtained through any of the grounds set out in the summons for revocation dated 23rd July

2015. In the result that application is hereby dismissed with costs to the Administrator/Respondent. It is so ordered.

DATED AND SIGNED AT MURANG'A THIS 15TH DAY OF JUNE 2017

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 16TH DAY OF JUNE 2017