



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MURANG'A**

**SUCCESSION CAUSE NO 1271 OF 2013**

**IN THE MATTER OF THE ESTATE OF WAMUMBU MUTHOTHO DECEASED**

SAMUEL GITHUA NJOROGE.....APPLICANT

VERSUS

MWANGI KABURU.....ADMINISTRATOR/RESPONDENT

**R U L I N G**

1. The Applicant herein, **Samuel Githua Njoroge**, applied by **summons dated 28/11/2013** for revocation or annulment of the grant of letters of administration intestate issued on 05/08/1007 in **Murang'a SRM Succession Cause No 26 of 1997**. The grant was confirmed and a certificate of confirmation of grant dated 14/10/1997 issued.
2. It turns out that the Applicant's claim in the Deceased's estate is that his father **Gabriel Njoroge Mbiro**, had bought from the Deceased two (2) acres in the Deceased's parcel of land, Loc 20/Mirira/1776. He does not state in his supporting affidavit when the purchase was made. His father is now deceased.
3. The Administrator responded to the application by filing a **notice of preliminary objection dated 16/11/2015**. The points of law raised are that the Applicant lacks the *locus standi* to institute the application for revocation, and further, that the claim that he is urging in the application is a civil right, not a succession matter, that can be enforced only in civil court.
4. At the hearing of the preliminary objection the Applicant conceded that he did not have any grant of representation in respect to his father's estate. His father died in 1998. He also stated that the land that his father bought from the Deceased was agricultural land, and that there was no land control consent obtained.
5. Without a grant of representation duly granted by a competent court of law, the Applicant has no capacity or *locus standi* to litigate on behalf of his deceased father's estate,
6. Secondly, the claim of the Applicant's father's estate in the Deceased's estate is based on a contract of sale of land. Issues pertaining to that contract of sale cannot be properly adjudicated in limited succession proceedings where the court's main mandate extends only to determining the persons beneficially entitled to a deceased person's estate and their respective shares therein.
7. The summons dated 28/11/2013 for revocation of grant is therefore entirely misconceived. It is hereby struck out with costs to the Administrator/Respondent. It is so ordered.

**DATED AND SIGNED AT MURANG'A THIS 19<sup>TH</sup> DAY OF MAY 2016**

**H P G WAWERU**

**JUDGE**

**DELIVERED AT MURANG'A THIS 20<sup>TH</sup> DAY OF MAY 2016**