

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

SUCCESSION CAUSE NO 334 OF 2014

IN THE MATTER OF THE ESTATE OF KAWIRI MAKARA, DECEASED

NJOKI MURIGI..... APPLICANT

VERSUS

1. GEOFFREY NDUNGU KARANJA

2. MWANIKI WANGAI..... RESPONDENTS

R U L I N G

1. This ruling concerns the **notice of preliminary objection dated 9/06/2015** filed by Administrators/Respondents in response to the **summons dated 9/04/2014** for revocation of grant. The grant sought to be revoked was issued and confirmed in ***Kigumo SPM Succession Cause No 25 of 2012***.
2. It turns out that the application for revocation has been made by the Applicant, **Njoki Murigi**, on behalf of the estate of her deceased father, **Murigi Njuguna**, who died on 19/10/2009. It is claimed that the said Murigi Njuguna purchased in 1968 the whole parcel of land, LR LOC 5/MARIAINI/450 from the Deceased in this case, **Kiwiri Makara**, which land constituted the Deceased's estate. The complaint in the summons for revocation is that the aforesaid Murigi Njuguna should have been disclosed in form P & A 5 as a creditor of the Deceased, and would therefore have been the beneficiary of the estate.
3. The main legal point taken in the notice of the preliminary objection is that the Applicant, Njoki Murigi, lacks the *locus standi* to bring the application for revocation as she has no grant of representation to her own father's (purchaser's) estate duly issued to her by a competent court, which grant would have given her the legal authority to apply as she has done. The other points raised in the preliminary objection go to the merit of the summons for revocation; at this point the court is not concerned with those merits. The two cases cited by the Applicant's learned counsel were decided upon the merits of the two applications for revocation that the court concerned was dealing with. They thus do not have any application to the preliminary point at hand.
4. The Applicant has not claimed that she is the legal representative of her father's estate; she has not exhibited any grant of representation. Legal representation is a matter of law which cannot be presumed.
5. Without a grant of representation duly issued to her by a competent court of law, the Applicant does not have the necessary legal capacity to bring the summons for revocation of grant. She was not the purchaser herself from the Deceased; her father was the purchaser, and he is now deceased. Only his estate can apply for revocation through a legal representative of the estate. Such is not the case here.
6. In the event I will uphold the preliminary objection. The summons dated 9/04/2014 for revocation of grant is incompetent for want of *locus standi* of the Applicant. The same is hereby struck out with costs to the Respondents. It is so ordered.

DATED AND SIGNED AT MURANG'A THIS 21ST DAY OF JULY 2016

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 29TH DAY OF JULY 2016