



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

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**In re Estate of Sarah Atabo Esiron - Deceased (Succession Cause
E011 of 2020) [2025] KEHC 13046 (KLR) (23 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13046 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
SUCCESSION CAUSE E011 OF 2020**

RK LIMO, J

SEPTEMBER 23, 2025

IN THE MATTER OF THE ESTATE OF SARAH ATABO ESIRON – DECEASED

BETWEEN

CATHERINE ORONDO ATABO PETITIONER

AND

JAMES LOPURUTO IMONI OBJECTOR

AND

PROF BEN WAFULA WANJALA INTERESTED PARTY

RULING

1. James Lopuruto Imoni, the applicant herein has moved this court vide summons for revocation of grant dated 24/3/25. He is asking this court to revoke the grant issued on 13/3/21 and confirmed on 21/10/21 and the main ground is that he is a child to the deceased herein and thus a dependant within section 29 of *Law of Succession Act*. He faults the respondent/administratrix for concealment and fraud.
2. According to the applicant, the respondent herein is not the only child to the deceased. He claims that the deceased had 9 other children.
3. This assertion has been supported by Prof. Ben Wafula Wanjala who claims that he knew the deceased and that he also has an interest in the estate along what he terms as riparian land.
4. The respondent on the other hand strongly objects the claims made by the interested party. According to her the interested party (Prof Ben Wafula Wanjala) is a total stranger. That he has no locus in this matter and that there is a live matter between her and the interested party pending at the Environment and Land Court vide ELC No.E049/21.



5. The respondent has filed a preliminary objection dated 14/5/25 asking this court to strike out the interested party from these proceedings and cites the provisions of section 29 of the Law of Succession Act.
6. The preliminary objection was canvassed by way of written submissions and this court notes that the interested party has not contested the respondent's allegation made on oath that he is neither a dependant nor a beneficiary of the deceased herein. He has not contested the existence of a matter filed and pending in Environment and Land Court between them.
7. This court finds that the proper court to determine the dispute over any interest if at all claimed by the interested party over the estate, is the Environment and Land Court. This court has jurisdiction to entertain and determine matters that are within the scope of Law of Succession Act (Cap 160 Laws of Kenya). Any other dispute touching on ownership/use of land are matters within the scope of Environment and Land Court as clearly stipulated under Article 162(2) (b) of the Constitution. The jurisdiction of this court over such matters are limited by Article 165(5) (b) of the Constitution.
8. In the premises the preliminary objection dated 14/5/25 is sustained. The interested party shall pay costs to the respondent.
9. In regard to the summons for revocation of grant dated 24/3/25, this court finds that in light of contested facts touching on the dependency by the applicant and the serious allegations made including the allegations made that they are "pawns" in a fight pitying the respondent and interested party in the Environment and Land Court, it is fair and just that all the issues be interrogated through viva voce evidence. The claims made by the applicant and contested by the respondent are issues that require serious interrogation through viva voce evidence for the ends of justice to be met. So while I strike out the claim by the interested party for want of locus standi and prosecution, I direct that the summons for revocation of grant dated 17/11/22 shall be canvassed through viva voce evidence.

Parties shall take directions upon delivery of this ruling.

DELIVERED, DATED AND SIGNED AT KITALE THIS 23RD DAY OF SEPTEMBER , 2025.

HON JUSTICE R.K. LIMO

KITALE HIGH COURT

Ruling delivered in open court

In the presence of

Talu for the Petitioner/Respondent

No appearance for Nyakundi for the Applicant

Duke/Chemosop- Court assistants

