



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
SUCCESSION CASE NO E002 OF 2020.

IN THE MATTER OF THE ESTATE OF SAMMY WAIHAKA NGUGI(DECEASED)
GRACE WANJIKU NJOROGE.....APPLICANT
VERSUS
CECILY NJOKI KAMAU.....1ST RESPONDENT
TERESIAH WANJIKU WAIHAKA.....2ND RESPONDENT
JOHN GICHOBI KAGO.....3RD RESPONDENT

RULING

- [1] The Court has considered the application dated 30/10/2020 brought under rule 45 and 47 of the Law of Succession Act.
- [2] The Court has considered the submissions by the applicant's dated 28/2/25 urging the Court the protection of the estate of the deceased and that the Respondents' submissions dated 29/1/2025 urging that the applicant has no *locus standi* without grant of the letters of Administration.
- [3] Since the Court of Appeal decision in *Trouistik Union International & another v Jane Mbeyu & another* [1993] KECA 89 (KLR), it established that a person may only sue on behalf of an estate of a deceased person if she is appointed a legal representative of the Deceased by Letters of Administration. See also *Otieno v. Ougo* (1987) eKLR.
- [4] I also respectfully note the decision of Dulu, J. in *Estate Geoffrey Meitamei Lonia – Deceased* (2012) eKLR that “*only an administrator or an interested party in an existing administration Cause, can apply for protection of the Deceased’s assets.*”
- [5] The applicant should seek first the appointment as administrator of the Estate of the Deceased before filing an application for intermeddling herein.

[6] Any persons who are found to have intermeddled in the estate of a deceased person on a proper application shall be responsible to lawful administrator and be liable to criminal sanction in terms of section 45 of the Law of Succession Act.

ORDERS

[7] Accordingly, for the reasons set out herein, the Court finds that the applicant has no *locus standi* to file the application dated 30/10/2020 and it is dismissed.

[8] The applicant must take out Letters of Administration in the Estate of her deceased father before making the application for protection of the estate, and for that purpose the Chief of the relevant area is directed to give to the applicant the necessary Chief's letter of introduction to the Court, to the extent of the Chief's knowledge and information on the Deceased herein and his circumstances.

[9] The Court does not make any orders as to costs of the application.

[10] File closed.

Orders accordingly.

DATED AND DELIVERED THIS 28TH DAY OF OCTOBER 2025.

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Mr. Ndana for the Applicant.

Ms. Naliaka for Mr. Kiama for the 1st Respondent.