



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of M’itimitu Mutuamwari M’tharanju (Deceased) (Succession Cause 10 of 2015) [2025] KEHC 15970 (KLR) (3 November 2025) (Ruling)

Neutral citation: [2025] KEHC 15970 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 10 OF 2015
SM GITHINJI, J
NOVEMBER 3, 2025
IN THE MATTER OF THE ESTATE OF M’ITIMITU
MUTUAMWARI M’THARANJU (DECEASED)**

BETWEEN

RAEL MWEROTIA PETITIONER

AND

HELLEN KARIMI OBJECTOR

RULING

1. For determination is the summons dated 26/10/2022 under section 76 of the *Law of Succession Act* and Rule 44 (1) of the Probate and Administration Rules, seeking that:
 1. This Honourable Court be pleased to revoke and/or annul the grant of Letters of administration intestate of the estate of M’itimitu Mutuamwari M’tharanju (deceased) rectified and issued to Rael Mwerotia on the 9th May, 2022.
 2. Costs of this application be provided for.
2. The application is premised on the grounds on the face of it and supported by an affidavit sworn by Hellen Karimi, the applicant herein, on even date. She accused the respondent of failing to disclose that she, Japhet Muthuri Mitu and Lucy Kambura Mitu had sold their portions of land out of L.R No. Tigania/Thananga/70, and in the meeting held on 8/7/2020, the respondent was advised to implement the grant as confirmed on 10/5/2017, but she refused since she and other beneficiaries had sold their portions of land. Following the demise of Moses Koyuri M’Itimitu and Peter Kaibunga M’Itimitu, the respondent unlawfully evicted her and her children from the portion she was occupying, measuring approximately 2 acres. The grant rectified on 9/5/2023 was irregular and geared towards denying her and her children their rightful shares of the estate.



3. The respondent swore a replying affidavit on 7/11/2023 in opposition to the application. She averred that she was the widow to the deceased while the applicant was the wife of her deceased son namely Moses Koyuri M'Itimitu. During the filing of this cause and the subsequent distribution of the estate, the said Moses Koyuri was alive and duly participated in the process. The said Moses Koyuri got 2 acres of the estate, where he established his home and settled his family. The applicant lacks the locus standi to file the application since she is neither the legal representative of Moses Koyuri (deceased) nor a beneficiary of the estate. Besides, the purported sales were done after the confirmation of the grant, and the application ought to be dismissed with costs.
4. The application was canvassed by way of written submissions, which were only filed by the applicant.

Analysis and Determination

5. The issue for determination is whether the grant should be revoked.
6. Section 76 of the *Law of Succession Act* stipulates that a grant of representation, whether or not confirmed, may at any time be revoked or annulled, either on application by any interested party or of its own motion if:
 - “(a) that the proceedings to obtain the grant were defective in substance;
 - (b) that the grant was obtained fraudulently by the making of a false statement or by the concealment from the court of something material to the case;
 - (c) that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant notwithstanding that the allegation was made in ignorance or inadvertently;
 - (d) that the person to whom the grant was made has failed, after due notice and without reasonable cause either -
 - (i) to apply for confirmation of the grant within one year from the date thereof, or such longer period as the court order or allow; or
 - (ii) to proceed diligently with the administration of the estate; or
 - (iii) to produce to the court, within the time prescribed, any such inventory or account of administration as is required by the provisions of paragraphs (e) and (g) of section 83 or has produced any such inventory or account which is false in any material particular; or
 - (e) that the grant has become useless and inoperative through subsequent circumstances.”
7. The applicant has deponed at paragraph 1 of her affidavit in support of the summons for revocation of grant that, “I am the applicant and the surviving wife of the late Moses Koyuri M’itimitu who was a son of the late M’itimitu Mutuamwari M’tharanju and in whose name this estate relates therefore competent to swear this affidavit.”
8. Notably, her interest in the estate is derivative of her late husband’s entitlement. The law presupposes that she obtains limited grant of letters of administration, because as properly urged by the respondent, she is neither a beneficiary of the estate herein nor a personal representative of her deceased husband.
9. While the application may not entirely be devoid of merit, no orders can issue to a party who lacked the requisite locus standi to institute it in the first instance.
10. The upshot from the foregoing analysis is that the application dated 26/10/2022 is in want of merit and is hereby struck out.



DATED AND DELIVERED AT MERU THIS 3RD DAY OF NOVEMBER, 2025

S.M. GITHINJI

JUDGE

Apperances:-

Hellen Kirimi M'Kirima

Respondent absent,

