

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

HCFP & A NO. E009 OF 2024

(CORAM: CHARLES KARIUKI – J)

IN THE MATTER OF THE ESTATE OF SAMUEL SOITANAE OLE KORIATA

(DECEASED)

RUTH CHERUIYOT.....CITOR

-VRS-

PETER OLE KORIATA.....

.....CITEE

RULING

1. The Applicant/Citor lodged citation dated 23/10/2025 seeking the court to direct Citor within 15 days to cause an appearance to be entered in the High Court Registry in Narok and accept or refuse letters of Administration of all estate which by law devolves to and vests in the personal representative of the deceased or show cause why the same should not be granted to the Ruth Cheruoyot (Citor) AND in default, of the so appearing and extracting – letters of Administration this court to proceed to grant letters of Administration to the Citor.
2. The Applicant’s citation is supported by the Affidavit of Ruth Cheruiyot and was sworn on 23/10/2025. The Citor depones that, by an agreement of 31/7/2004, she and her late husband, and the said Samuel Soitanae Ole Koriata, bought LR. No. CIS MARA/OLOLULUNGA/13437, upon subdivision, was registered to the names of the

deceased and his son, thus prompting Citor to file MC ELC 24/2019 against both. Subsequently, the same portion was transferred to the names of the son of the deceased, and upon transfer, he went ahead to trespass by ploughing and spraying herbicides on the crops and grazing cattle therein.

3. Subsequently, the deceased passed before the above-mentioned suit could proceed to a hearing. Since the said demise, it is 5 years now, and the deceased's family members have not taken letters of Administration in respect of the estate of the deceased, thus delaying the said suit.
4. The Cittees, upon service, lodged a Preliminary Objection and set out two grounds of opposition. The court directed that submissions be confined to the same Preliminary Objection.

Cittee Submissions:

The grounds of objection are:

5. The court lacks jurisdiction to intervene as sought against Cittee, who is the son of the deceased, since no petition has been filed in respect of the deceased's estate.
6. Under Article 162 (2) (b) of the constitution of Kenya, 2010 and Section 4 and 13 (2) of the ELC Act 2012, the High Court has no jurisdiction to entertain claims in respect of his proprietorship over land subject matter. The claim is also said to be time-barred as the purchase was effected on 31/7/2004 over the suit land. The deceased died 6 years ago on 31/7/2019. The claim by Citor was dismissed.
7. Further under Section 66 Laws of Succession Act Cap 160, the Citor is not ranked as a past person who has priority to take letters of Administration of the deceased. The Respondent did not respond to the Preliminary Objection raised nor file submissions to rebut the contents thereof.

8. Thus, the court would accept the factual situation raised, especially the dismissal of MCELC Case 94/2019, as accurate. The non-existence of a live case No. 94/2019 is enough ground to dismiss the instant citation. The letters are sought to expedite the disposal of the above suit, which was filed in the land litigation district.
9. At the moment, there is no indication that the claim is live on the letter sought to render institutions of fresh claim in any event, the issue of the time bar has been raised, rendering any claim based on the agreement of 31/7/2004 to be outside the 12-year period, which suit ought to have been instituted.

i. Thus, the court finds the citation meritless and dismisses it with costs to the Citees.

**DATED AND DELIVERED AT NAROK VIA MICROSOFT
TEAMS THIS 28TH NOVEMBER 2025**

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CHARLES KARIUKI

JUDGE