

**THE REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT KAJIADO**  
**ELC CASE NO E011 OF 2021**

MERERU YAILE

.....PLAINTIFF

VERSUS

SIMINTEI OLE MERERU .....1<sup>ST</sup>  
DEFENDANT

LAND REGISTRAR NGONG .....2<sup>ND</sup>  
DEFENDANT

**RULING**

*(On whether the court has the jurisdiction to entertain the plaintiff's suit)*

**Background.**

1. The Plaintiff's suit was initiated by way of the plaint dated 23<sup>rd</sup> February 2021 filed on 25<sup>th</sup> February 2021. The Plaintiff filed the suit on behalf of the estate of Mereru Ole Parmuat (deceased) having obtained a limited grant ad litem for purposes of filing a suit on 29<sup>th</sup> January 2021.

2. The Plaintiff asserts that the late Mereru Ole Parmuat is the registered owner of the parcel of land known as Kajiado/Ewaso-Kedong/1451 (hereinafter referred to as 'the suit property') and whose original title the Plaintiff holds. No grant of letters of administration of the estate of the deceased has been issued to date yet the late Mereru Ole Parmuat died way back in the year 2002.
3. According to the Plaintiff, the 1<sup>st</sup> Defendant, who is also a son of the late Mereru Ole Parmuat, is the proprietor of a neighboring parcel of land known as Kajiado/Ewaso-Kedong/1452.
4. The Plaintiff's case is that the 1<sup>st</sup> Defendant has encroached into the suit property excavating stones for sale, cutting down trees for charcoal and farming therein without any lawful cause. The Plaintiff discloses that he had filed suit against the 1<sup>st</sup> Defendant earlier on, sometimes in the year 2007, but it was dismissed on the basis of his lack of capacity to sue.
5. The Plaintiff further alleges that the 1<sup>st</sup> Defendant has consolidated the suit property with his own land and illegally

and fraudulently obtained a title in his name referred to as Kajiado/Ewaso-Kedong/5831, with the help of the 2<sup>nd</sup> Defendant.

6. The Plaintiff's principal complaint against the 1<sup>st</sup> Defendant is that the 1<sup>st</sup> Defendant is intermeddling with the estate of his deceased father and dealing with the same without a grant of letters of administration; thereby disinheriting him and the other beneficiaries of their deceased father. The Plaintiff terms the actions by the 1<sup>st</sup> Defendant criminal.
7. The Plaintiff discloses that they have initiated Succession Cause No. 15 of 2020 but does not explain the outcome of the same. He prays for various orders against the Defendants including an order of permanent injunction restraining the 1<sup>st</sup> Defendant herein from interfering with the proprietary rights of the estate of the deceased over Kajiado/Ewaso-Kedong/1451, general damages for trespass, and mesne profits amongst other orders.
8. Amongst the documents that the Plaintiff has attached in support of his claim is a letter from the chief Najile location dated 6<sup>th</sup> June 2020 confirming him (the Plaintiff) and the 1<sup>st</sup>

Defendant, amongst the other siblings as legal heirs of Mereru Ole Parmuat (deceased). This is common ground; that the 1<sup>st</sup> Defendant is a beneficiary of the estate of Mereru Ole Parmuat (deceased) too.

### **Determination**

9. The Law of Succession Act which was enacted for the purposes of the administration of the estates of deceased persons has adequate mechanisms to address issues of intermeddling or interference with the estates of the deceased persons by unauthorized persons and all the other sort of complaints raised by the Plaintiff in this case.
10. One thing that is clear and undisputed is that the ownership of the suit property is not in dispute. The 1<sup>st</sup> Defendant expressly admits that the suit property is owned by his deceased father, the late Mereru Ole Parmuat (deceased). I see no plausible reason why this suit should be maintained in this court while there exists at the same time a Succession Cause No. 15 of 2020 as disclosed by the Plaintiff at paragraph 21 of his plaint. The court handling the

succession matter has all the powers to address the grievances raised in this case and grant the appropriate reliefs.

11. For emphasis, I refer to the Court of Appeal decision in the case of **Floris Piezzo & another -vs- TGiancarlo Falasconi (2014) eKLR**, where the court emphasized on the powers of the Succession court under the Law of Succession Act as follows;-

***“The application before the High Court was for temporary injunction to restrain the appellants from dealing with the suit premises in a manner inimical to the estate of the deceased. The question which arose and had to be determined first was whether the court had jurisdiction to grant an injunction in a succession cause. The appellants took the position that the court had no such jurisdiction whereas the respondent took the contrary position. However, the High Court was persuaded that Rule 73 of the Probate and Administration Rules reserved the court’s inherent jurisdiction to allow for the grant of injunctions in deserving cases. We are in total agreement with this conclusion. We have no doubt at all that the Law of Succession Act gives***

***the court wide jurisdiction in dealing with testamentary and administration issues of an estate. Indeed Section 47 of the said Act gives the court jurisdiction to entertain any application and determine any dispute under the Act and to pronounce such decree and orders as may be expedient. It cannot be said that such decrees and orders would exclude injunction orders. In other words we are of the same view that Section 47 of the Act gives the court all-embracing powers to make necessary orders, including injunctions where appropriate to safeguard the deceased's estate. This section must be read together with Section 73 of the Probate and Administration rules which further emboldens the court's jurisdiction to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of court. We would imagine such orders would also include injunctive orders."***

12. The appropriate court to handle the issues raised in this case is the succession court. The upshot is that this case is struck out. The court however makes no orders as to costs considering the relationship between the Plaintiff and the 1<sup>st</sup>

Defendant, who are siblings, in a bid to attempt to promote reconciliation between them.

It is so ordered.

**Dated, Signed and Delivered Virtually this 30<sup>th</sup> Day of April, 2026.**

**M.D. MWANGI  
JUDGE**

**In the virtual presence of:**

Ms. Kirisiet for the 1<sup>st</sup> Defendant

N/a by the Plaintiff and the 2<sup>nd</sup> Defendant

Court Assistant: Alex

**M.D. MWANGI  
JUDGE**