



REPUBLIC OF KENYA



KENYA LAW
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**Waciuri v Waciuri & 3 others (Environment & Land Case
46 of 2023) [2024] KEELC 184 (KLR) (24 January 2024) (Ruling)**

Neutral citation: [2024] KEELC 184 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 46 OF 2023
A OMBWAYO, J
JANUARY 24, 2024**

BETWEEN

PETER WAWERU WACIURI PLAINTIFF

AND

PAUL GACHENGO WACIURI 1ST DEFENDANT

JOHN MURIU WACHIURI 2ND DEFENDANT

ANN WANJA WACHIURI 3RD DEFENDANT

JOYCE WANGARI WACHIURI 4TH DEFENDANT

RULING

1. The plaintiff Peter Waweru Waciuri prays for a temporary injunction restraining the defendants their servants and authorized agents from dealing with parcels namely Dundori /Lanet Block 2/2579,2580,2281,2582,2583,2584,2585,2586 and 2587 in any way as the owners.
2. The application is premised on grounds that the suit land being original land parcel Number Dundori/ Lanet Block 2/118 was held by the late Grace Wangui Wachiuri.
3. The defendant/Respondent lacks *Standi* to sub divide and own the land parcel Dundori/Lanet block 2/118 which belongs to the deceased person before succession is done.
4. No prejudice or injustice will be occasioned to the defendant/Respondent if the said application is allowed. The supporting affidavit reiterates the grounds. The application though served is not opposed. I have perused the record and do not see any grant of Letters of Administration intestate or grant of probate made to the plaintiff to be legal representative of the estate of the deceased Grace Wangui Waciuri and therefore it is doubtful that the plaintiff has capacity to sue on behalf of the estate.



5. Section 82(a) of the *Law of Succession Act* Cap 160 Laws of Kenya provides that a personal representative shall subject to Limitation imposed by their grant have powers to enforce , by suit or otherwise all causes of action which. By virtue of any law, survive the deceased or arising out of his death.
6. I am not satisfied that the plaintiff obtained a grant as required in this section of the law and therefore the plaintiff has not established a *prima facie* case with a likelihood of success. I do decline to grant the application. Costs in the cause.

RULING DATED SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 24TH DAY OF JANUARY 2024.

A. O. OMBWAYO

JUDGE

