



REPUBLIC OF KENYA



KENYA LAW

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In re Estate of Micere Karani Kubunya (Deceased) (Succession Cause E007 of 2025) [2025] KEHC 12425 (KLR) (3 September 2025) (Ruling)

Neutral citation: [2025] KEHC 12425 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
SUCCESSION CAUSE E007 OF 2025**

EM MURIITHI, J

SEPTEMBER 3, 2025

IN THE MATTER OF THE ESTATE OF MICERE KARANI KUBUNYA (DECEASED)

BETWEEN

PETERSON KARANI NYAWIRA PETITIONER

AND

MAINA KARANI ALIAS SIMON MAINA KARANI RESPONDENT

RULING

1. The petitioner filed summons dated 4th February, 2025 seeking the following orders:
 1. There is now pending in this Honourable Court a suit against (the deceased's estate or for the deceased's estate) being suit number ELC 5 of 2018 Kerugoya.
 2. I present this Petition in my capacity as the grandson /beneficiary of the deceased.
 3. That a grant of administration ad litem do issue limited for purpose (of filing/defending) a suit or representing suit).
 4. That I have no powers to distribute an estate under this grant.
2. The petitioner filed a supporting affidavit on the facts relied on. The petitioner's case is that he is a beneficiary of the deceased estate through his mother, Eunice Nyawira Karani (Deceased) who was the only daughter to Micere Karani (Deceased). The deceased was survived by her children: James Kariuki Karani, Simon Maina Karani, Eunice Nyawira Karani (Deceased) and John Wanjohi Karani. The deceased did not have any known liabilities or assets at the time of death save for the Land parcel number Mwerua/Kagioni/1135 that was awaiting transfer to her name as the same land parcel was a subdivision of Mwerua/Kagionu1771 that belonged to her late husband Maina Karani.



3. Further, he deposed that Micere Karani (Deceased) was his grandmother and together with his mother (Deceased) and sister we live on the Land Parcel number Mwerua/KagionVI1135 and might be rendered desolate if they do not prosecute civil proceedings.
4. Lastly, that there is a suit in Environment and Land Court at Kerugoya ELC no. 5 of 2018 James Kariuki Karani and Others Versus Simon Karani and others and he seek to prosecute the same as a legal representative to the Estate of Micere Karani (Deceased).
5. The Respondents opposed the petition by a replying affidavit setting out their position that the petitioner herein is his nephew; his mother had other children as stated in paragraph 6 of the affidavit; and that the land parcel number Mwerua/Kagio-ini/1135 has never been registered in his mother's name pointing to the green card, applicant's annexure PKN-4.
6. Further, the said land was later registered in the name of Christopher Mathenge Wahome who had sued him and his brother James Kariuki Karani in Kerugoya CMCC No. 191 of 2012. His brother James Kariuki Karani filed a counter-claim seeking to enforce the order of 19/11/1991, given in Kerugoya RMCC No. 146 of 1989, and to have the transfers of land parcel numbers Mwerua/Kagio-ini/1135, 1136 and 1137 cancelled. That the court dismissed the counter-claim, and ordered that his brother James Kariuki Karani be evicted from land parcel number Mwerua/Kagio-ini/1135. That no appeal was filed against the court's judgment and subsequent orders.
7. Lastly, he deposed that the applicant seeks to represent or defend the suit in ELC NO. 5 of 2018, over the same land. No pleadings have been annexed concerning the said case which was filed way back in 2018. The truth of the matter is that the estate of Micere Karani Kubunya is not a party in that case.
8. The petitioner filed a supplementary affidavit replying that the land parcel was originally Mwerua/Kagion/177 and following a court order issued on 14th May 2012, the Honourable Magistrate ordered that the land parcel to be subdivided among Agnes Micere Karani (Deceased), Simon Maina (Respondent), John Wanjohi Karani (consented beneficiary) and James, Kariuki Karani (consented beneficiary). That following the court orders granted the Respondent herein did not follow through with the transfer as ordered by the court.
9. Moreover, himself and the other beneficiaries of the estate have since filed a suit in the ELC Court at Kerugoya ELC no. 5 of 2018 James Kariuki Karani and others Versus Maina Karani and others to prevent the Respondent herein from further selling the property.

Petitioner submissions

10. The petitioner submits that the issue raised by the objector on res judicata does not hold waters before this Honourable Court and he can raise this issue before the Environment and Land Court where the main suit is.
11. The issuance of the letters of administration ad litem are only for the purpose of defending and representing the deceased in the Environment and land Court at Kerugoya ELC No. 5 of 7018.
12. Further, there no succession and or administration has been undertaken in the Estate of Micere Karani or her husband Karani Kubunya. The Petitioner herein upon issuance of the limited grant will not be subject to distribute any properties or intermeddle with the Estate of the deceased but simply to defend and represent the suit in the Environment and land Court at Kerugoya ELC Number 5 of 2018.
13. The Petitioner's sole duty is to protect and preserve the Estate of Micere Karani. In re the estate of Helena Wangechi Njoroge (Deceased) (2015) eKLR.



Respondent submissions

14. Despite the applicant stating that he wants to represent and defend the suit in ELC No 5 of 2018, there is no attachment of any court proceedings or pleadings showing that the estate of Micere Karani Kubunya is a party to the case. Its further not in dispute that the deceased herein did not own any land.

Issue

15. Whether the grant of Letters of Administration ad litem may be made.

Analysis

16. The petition seeks to be issued with a Grant ad Litem for purposes of representing, continuing with and defending the suit in ELC No.5 of 2018 Kerugoya which is pending in court in regards to Land Parcel number Mwerua/Kagioni /1335.
17. The petitioner's case is that he is a beneficiary of the deceased estate through his mother, Eunice Nyawira Karani (Deceased) who was the only daughter to Micere Karani (Deceased). Further, he deposed that Micere Karani (Deceased) was his grandmother and together with his mother (Deceased) and sister live on the Land Parcel number Mwerua/Kagioni VI1135 and might be rendered homeless if they do not prosecute suit.
18. In response, the respondent deposed that land parcel number Mwerua/Kagioni-1/1135 has never been registered in his mother's name.
19. Rule 73 Probate and Administration Rules gives the Court inherent powers to make orders in the interest of justice or to prevent abuse.
20. In re the estate of Helena Wangechi Njoroge (Deceased) (2015) eKLR the Court held the following concerning letters of administration 'ad litem':

“...It was limited to the purpose of filing suit to preserve the three assets of the estate. It is what is called a grant of letters of administration ad litem. The suit envisaged to be filed on the strength of a grant ad litem is not a probate or succession case, or an interlocutory application within a probate or succession cause, but rather a civil suit. Indeed, one need not obtain a grant of any sort to enable him file a succession cause. A grant of representation is only necessary where one intends to file a civil suit to protect or defend the estate against third parties.”
21. The petitioner deposes that the deceased owned Land parcel number Mwerua/Kagioni/1135 that was awaiting transfer to her name as the same land parcel was a subdivision of Mwerua/Kagioni/177 that belonged to her late husband Maina Karani.
22. In this case, there is, prima facie, a cause of action for which the deceased has standing and having passed on, and the action surviving her, the personal representative seeks to represent the deceased estate. The cause of action need not be one that must succeed. It is sufficient that the Deceased has shown an arguable claim suitable for investigation by the appropriate Court. Hence the request for grant ad litem to litigate such claim on behalf of the deceased.
23. Needless to state, the role of the Grant of Letters of Administration ad litem is limited. If granted, the administrator has no power to distribute the estate if successful in his claim on behalf of the deceased.



The applicant shall be granted limited letters of administration to enable him pursue the deceased's claim for the benefit of his deceased mother's interest in the Estate.

Orders

24. Accordingly, the Court grants the applicant the Grant of Letters of Administration ad litem to the Estate of the Deceased in pursuit of his deceased mother interest in the Estate.
25. The Grant of Letters of Administration is limited for purposes of filing or defending suit only.
26. There shall be no orders as to costs.

Order accordingly.

DATED AND DELIVERED THIS 3RD DAY OF SEPTEMBER 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Peterson Karani Nyawira Applicant.

Ms. Ngumbao for the petitioner.

Mr. Mwangi for the Respondents.

