

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL APPEAL NO. 141 OF 2011

SALIM MOHAMED KARANJA.....APPELLANT

VERSUS

REPUBLIC.....PROSECUTOR

RULING

1. This is a ruling on an oral application by one of the administrator of the estate of the surety of the accused herein one Emily Gathigia Gikiri. The applicant Reuben Mwangi Gathigia told the court that his mother died on 16/06/2015 having executed bond of Kshs.500,000/= in favour of the appellant herein Salim Mohamed Karanja in H.C.R Appeal No. 141 of 2011 on 10th January 2013. Reuben further stated that the appellant was only known to the deceased and not the rest of the family. He added that the family has filed succession proceedings in respect of their late mother's estate and are desirous to have the security for L.R. Thegenge/Kianjogu/1179 released to them.
2. The background facts are that the appellant absconded bond before the court delivered judgement in this appeal and has not been traced to date. The respondent is still following up with the DCI Nyeri on the arrest of the appellant and has no objection to this application.
3. The purpose of a surety in executing bond is to ensure that the accused attends court when he is required to do so. It follows that the death of a surety brings to an end his/her obligation in regard to securing the attendance to court of the accused.
4. In the case before me, the surety died in 2015 and therefore her obligation abated with her death.
5. I find no good reason for this court to continue holding the security of the surety in the circumstances.
6. Consequently, I hereby allow the said oral application of the administrator in the estate of Emily Gathigia Gikiri.
7. It is hereby ordered that the title deed of the deceased for L.R. No Thegenge/Kianjogu/1179 be released to the administrator Reuben Mwangi Gathigia.
8. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT NYERI THIS 23RD DAY OF FEBRUARY, 2022.

F. MUCHEMI

JUDGE

RULING DELIVERED THROUGH VIDEO LINK THIS 23RD DAY OF FEBRUARY 2022