



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**SUCCESSION CAUSE NO. 51 OF 2012**

**IN THE MATTER OF THE ESTATE OF THE LATE SAMUEL KIPRONO MUTAI (DECEASED)**

**PRISCILLA CHEPKEMOI MUTAI.....1<sup>ST</sup> PETITIONER**

**ZAKAYO C. LANG'AT.....2<sup>ND</sup> PETITIONER**

**VERSUS**

**WOINDAH CHEPKOECH MARUSOI (Deceased).....OBJECTOR**

**ALEX KIPNGENO A. KOECH.....1<sup>ST</sup> APPLICANT/OBJECTOR**

**NICKEY KIPTOO RONO.....2<sup>ND</sup> APPLICANT/OBJECTOR**

**RULING**

1. The Application coming for consideration in this ruling is the summons for substitution dated 12/9/2018 seeking the following orders.
  - (i) **THAT ALEX KIPNGENO A KOECH to substitute the objector who has since passed away.**
  - (ii) **THAT NICKEY KIPTOO RONO be added as the 2<sup>nd</sup> Objector to the proceedings.**
  - (iii) **THAT the name of WOINDAH CHEPKOECH MARUSOI be deleted and replace with the name of ALEX KIPNGENO A. KOECH.**
  - (iv) **THAT ALEX KIPNGENO A. KOECH be the 1<sup>st</sup> Objector and NICKEY KIPTOO RONO to be the 2<sup>nd</sup> Objector.**
  - (v) **THAT the costs of the Application be provided for.**
2. The Application supported by the Affidavit of **NICKEY KIPTOO RONO** in which it is deposed that Objector who was the grandmother of the Applicant is now deceased and the Applicant is the son of the deceased to whom the proceedings relate and further that the Petitioners are total strangers to the Estate.
3. Further this deposed in the Supporting Affidavit that the Petitioner left out **JANE CHEPKORIR** the deceased's first wife, **PURITY CHEROTICH** and **SHARON CHEPTOO KORIR** and the Applicant from the proceedings and concealed the proceedings by filing them at Nakuru.
4. The parties filed written submissions in the Application which I have duly considered. The Petitioners stated in their submissions that they filed an Affidavit dated 17/9/2018 which is missing from the record.
5. Having considered the submissions and the summons for substitution, it is clear that the Objector **WOINDAH CHEPKOECH MARUSOI** died before the objection would be heard and determined on merit.
6. The deceased objector had already given her evidence and it is therefore in the interest of justice that the Applicant substitutes her for purposes of proceeding with the objection for the Court to determine whether or not she had a valid claim.
7. Objection proceedings do not terminate with the death of the objector. The Court has to determine whether the objector had a valid claim for the benefit of her Estate.

8. I accordingly allow the application dated 12/9/2018 and direct that **ALEX KIPNGENO A. KOECH** substitutes the objector and further, **NICKEY KIPTOO RONO** be added as the 2<sup>nd</sup> Objector.

9. The Objectors are directed to file and serve their witness statements within 30 days of this date.

10. This case will be mentioned after 30 days for purposes of taking a hearing date.

11. Each party to be his own costs of this Application.

**DELIVERED, SIGNED AND DATED AT KERICHO THIS 16TH DAY OF APRIL, 2021.**

**A. N. ONGERI**

**JUDGE**