



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 202 OF 1990**

**IN THE MATTER OF THE ESTATE OF CHEGE KIRUMBA (DECEASED)**

**RULING**

1. On 25<sup>th</sup> November 2016 I delivered a ruling dismissing applications dated 1<sup>st</sup> and 24<sup>th</sup> April 2014, save for grant of one prayer, largely on the basis that the court in Nairobi CMCCC No. 1795 of 1995 had entered a judgment which ought to be respected and complied with.
2. The applicants in the two applications have come back to court vide an application dated 4<sup>th</sup> May 2017. Their case is that the court was misled, the judgment in Nairobi CMCCC No. 1795 of 1995 was set aside by consent on 2nd December 1996, and the entire suit in Nairobi CMCCC No. 1795 of 1995 subsequently dismissed for non-attendance on 16<sup>th</sup> June 1999. That being the case, they argue, the court should revisit the dismissed applications and determine them on their merits.
3. The 1<sup>st</sup> respondent to those applications, and in the instant application, has exhibited proceedings that appear to suggest that Nairobi CMCCC No. 1795 of 1995 is still alive or might have been revived after the dismissal of 16<sup>th</sup> June 1999 given the appearances recorded to have happened in 2001.
4. Before I can make final orders on the review application before me, I need to peruse through Nairobi CMCCC No. 1795 of 1995 to satisfy myself as to the status of that suit, for the orders made in it should have a profound effect on the final outcome of these proceedings.
5. I hereby direct the Deputy Registrar to call for the court file in Nairobi CMCCC No. 1795 of 1995. This matter shall be mentioned thereafter so that I can allocate a date for ruling on the application dated 4<sup>th</sup> May 2017.

**DATED, SIGNED and DELIVERED at NAIROBI this 29<sup>TH</sup> DAY OF SEPTEMBER, 2017.**

**W. MUSYOKA**

**JUDGE**