



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA

ELC CASE NO. 109 OF 2014

JAIRUS KARIUKI MBICHO.....PLAINTIFF

VERSUS

EMMANUEL KARIUKI GICHACHA.....DEFENDANT

ELIZABETH WAIRIMU KARIUKI.....APPLICANT

RULING

The applicant herein ELIZABETH WAIRIMU KAIRUKI has by her application dated 15th June 2015 and filed herein on 16th June 2015 sought the following orders:-

1. ***That the Honourable Court be pleased to substitute the plaintiff herein with ELIZABETH WAIRIMU KARIUKI.***
2. ***That costs be in the cause.***

The basis of this application as can be gleaned from the grounds therein and the applicant's supporting affidavit is that the plaintiff here JAIRUS KARIUKI MBICHO now deceased who was her father died on 11th December 2014 and is survived by the applicant who is desirous of proceeding with the suit herein and has accordingly obtained a grant of Administration Ad litem a copy of which was attached to her application (annexture **EWK-2**).

The application is opposed and in his replying affidavit, the respondent EMMANUEL KARIUKI GICHACHA has deponed that he has already filed a summons for the revocation of the grant issued to the applicant in Kerugoya High Court Succession Cause No. 163 of 2015 because the applicant conceded facts to the Court that issued the said grant. Copies of that application for revocation of grant together with the supporting affidavit were annexed – **EKG 1**.

The application was canvassed orally before me with Mr. Chomba for the applicant asking the Court to rely on her supporting affidavit. The respondent's response basically is that this application should be dismissed pending his application for revocation which was coming up for hearing on 8th March 2016.

I do not see any valid reason why I should not allow this application. As matters stand now, the applicant has been granted a limited grant ad litem for purposes of substitution in this case. Before that grant is revoked, it remains a valid grant which this Court must respect. No other reason other than that has been put forward as to why I should not allow the substitution.

I accordingly allow the applicant's Notice of Motion dated 15th June 2015 and filed herein on 16th June 2016. As the parties are siblings, each party shall meet their own costs.

It is so ordered.

B.N. OLAO

JUDGE

26TH FEBRUARY, 2016

Ruling delivered this 26th day of February, 2016 in open Court.

Ms Thungu for Mr. Chomba for Applicant present

Respondent present in person.

B.N. OLAO

JUDGE

26TH FEBRUARY, 2016