



**REPUBLIC OF KENYA**

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

**SUCCESSION NO. 51 OF 2013**

**IN THE MATTER OF MATHANJUKI MUTHANGATO (DECEASED)**

**JOHN MURIITHI MWANIKI .....APPLICANT**

**RULING**

1. This is an application for substitution of the deceased, Kabau Mathanjuki with John Muriithi Mwaniki.
2. The application is supported by the grounds on the face of the chamber summons. The first ground is that the petitioner died on 29th August 2011. The second ground is that the substitution of the petitioner is necessary for the conclusion of this succession cause. The third one is that the applicant is a beneficiary of the estate of the deceased. According to the affidavit of the applicant the succession cause was filed in 1991 by the the deceased, Kabau Mathanjuki, who died in 2013. He further stated in that affidavit that after his death he did not know how to go about the succession cause. He has also stated that 20 years have lapsed since the filing of the succession cause.
3. Furthermore he has stated that the grant was issued on 19th July 1993. Finally he has stated that all the beneficiaries are in agreement as to the mode of distribution of the estate.
4. I find that there has been inordinate delay in applying for the confirmation of the grant. The explanation of the delay according to John Muriithi is that they did not know how to go about it, after death of Kabau Mathanjuki.
5. I accept the explanation of the applicant in respect of the delay. It is satisfactory bearing in mind that he is a lay man. In the circumstances I hereby grant the application of John Muriithi Mwaniki in terms of prayer 1 of the chamber summons dated 27th November 2015.
6. There will no order as to costs.

**RULING DATED, SIGNED and DELIVERED** in open court at **EMBU** this 23rd day of May **2016**

In the presence of Ms. Ndongoro for the applicant .

Court clerk Njue

**J.M. BWONWONGA**

**JUDGE**

**23/05/2016.**