

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

CIVIL APPEAL NO 841 OF 2007

BUSTRACK LIMITED.....APPELLANT

V E R S U S

JONATHAN MUTUNGWA KATONGE.....RESPONDENT

CONSTANCE NGINA MAKUTHI.....INTERESTED PARTY

R U L I N G

1. The Interested Party herein, **Constance Ngina Makuthi** seeks by **chamber summons dated 31st May, 2013** leave to be enjoined in this suit as an Interested Party. She has deponed in the supporting affidavit that she was the legal wife of the Deceased in this case, **Peter Kyalo Katonde**, and that together they had two children who are living with her.
2. The Interested Party has further deponed that after the death of the Deceased she was violently abused, harassed, assaulted on many occasions and finally chased away from her matrimonial home by her late husband's relatives led by the Respondent in this appeal, **Jonathan Mutungwa Katonde**, who filed the suit that gave rise to the appeal for damages on account of the death of the Deceased without the knowledge or consent of the Interested Party, and by using false information and other misrepresentation.
3. The Interested Party filed a **further affidavit** on 13th June, 2013 to which she annexed various documents in support of her relationship with the Deceased.
4. Despite service of the application upon him the Respondent has not filed any response to the application.
5. The Appellant, **Bustrack Limited**, has no objection to the Interested Party being enjoined in the appeal.
6. In the circumstances, I will allow the application; Constance Ngina Makuthi is hereby enjoined in this appeal as Interested Party. It is so ordered. Costs will be in the cause. It is so ordered.

DATED AND SIGNED AT NAIROBI THIS 28TH DAY OF MAY 2014

H.P.G.WAWERU

JUDGE

DELIVERED AT NAIROBI THIS 30TH DAY OF MAY 2014