



**REPUBLIC OF KENYA**

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

**CIVIL SUIT NO. 63 OF 2010**

**WANDABWA SIKOWA WABULE .....PLAINTIFF**

**VERSUS**

**MICHAEL KIBIWOTT SERONEY ..... DEFENDANT**

**RULING**

The Applicants brought a Notice of Motion dated 14th June, 2011 seeking to have the name of the Plaintiff in this suit substituted with those of Annah Nambuye Hassan and Caleb Sirengo. During the hearing of the application, Mr. Samba for the Applicants orally applied for amendment to prayer (a) of the application seeking to bring in the name of Violet Nafula Wachie in place of Caleb Sirengo. The application was allowed and the name of Violet Nafula Wachie replaced that of Caleb Sirengo.

The two Applicants are the legal representatives of the deceased Plaintiff Wandabwa Sikowa Wabule. The application had been opposed by the Defendant/Respondent who was privy to matters pertaining the estate of the late Wandabwa Sikowa Wabule. The Respondent was aware that the family of the deceased was opposed to the inclusion of the name of Caleb Sirengo as one of the administrators of the estate of Wandabwa Sikowa Wabulwe. He annexed summons for revocation of grant in which the inclusion of the name of Caleb Sirengo was challenged. He therefore contended that there should be no substitution until the issue of administrators of the estate of Wandabwa Sikowa Wabule is sorted out.

The Applicants had filed a Supplementary Affidavit which indicated that the family of the deceased Wandabwa Sikowa Wabule had agreed to drop the name of Caleb Sirengo as one of the administrators and in his place had brought in Violet Nafula Wachie. In view of the amendment and the fact that what had formed the basis of the opposition to the application had been removed, Mr. Ingosi for the Respondent had nothing to say in opposition saying that he had let the Court decide the application based on the Replying Affidavit.

As I have said before in this ruling, the reason why the Respondent opposed the application for substitution was that Caleb Sirengo who was one of the administrators of the estate of Wandabwa Sikowa Wabule was not supposed to be one of the administrators. Since the issue had since been sorted out and grant accordingly amended, leaving out the name of Sirengo Caleb and an amendment to the Notice of Motion having been allowed, I find that the application is well founded. The same is allowed with the result that Anna Nambuye Hassan and Violet Nafula Wachie are allowed as Plaintiffs in this suit. Costs of this application shall be in the cause.

It is so ordered.

**Dated, signed and delivered in Open Court on this 14th day of August, 2013.**

**E. OBAGA**

**JUDGE**

In the presence of Mr. Ingosi for M/S Kibe for Defendant and Mr. Chebii for Mr. Samba for Plaintiff.

Court Clerk: Lobolia.

**E. OBAGA**

**JUDGE**

**14/08/2013**