

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
CIVIL SUIT 1769 OF 1996

JOHN MBURU KIBE.....PLAINTIFF

VERSUS

OFFICIAL RECEIVER OF THE ESTATE OF GURCHARAN SINGH SANDHA.....1ST
DEFENDANT

MAHAN SINGH S/O JALAMAL SINGH.....2ND
DEFENDANT

SATPAL SINGH SANDU.....3RD DEFENDANT

FREDRICK K. KIMANI.....INTERESTED PARTY
APPLICANT

RULING

The application before the Court dated 28th June 2010 is brought by the Interested Party and is seeking orders that this Court dismisses the suit and application herein both dated 23rd February 2004. The grounds are that the Plaintiff who instituted this suit died sometime in 2008 according to information provided by his Advocate on 30th June 2009 to this Court, and that it is over one year since the death of the Plaintiff was reported and no known legal representatives or dependants have shown interest in this suit.

The Applicant in his Supporting Affidavit sworn on 28th June 2010 states that he is an interested party by virtue of adverse possession, and currently in actual possession of the suit property. On perusal of the court record, I did find that the Plaintiff's death was reported to the Court as stated, but no evidence of such death is on record. I also found that the Applicant did file an application dated 29th April 2004 to be joined as an Interested Party, but there is no record of the said application having been heard, or of orders given by this Court joining him as a party to this suit. In the premises the Applicant has no *locus standi* to bring the application, and the same is struck out.

The Applicant shall bear the costs of the application.

Dated, signed and delivered in open court at Nairobi this 19th day of June, 2012.

P. NYAMWEYA

JUDGE