



SUCCESSION

- **Striking out an application after the death of the applicant.**

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

SUCCESSION CAUSE NO. 45 OF 2000

IN THE MATTER OF THE ESTATE OF DAUDI M'MUNYUA M'MWONGERA (DECEASED)

LYDIA MWITHIMBU.....PETITIONER

VERSUS

JOHN KOBIA M'ARITHO.....INTERESTED PARTY

RULING

The summons for revocation dated 24th January 2006 was filed in this cause by Hopewell Kirimana Munyua. It has not todate been prosecuted. By an application dated 13th October 2010, John Kobia M'Aritho seeks that the said summons for revocation be declared to have abated following the death of Hopewell. Although the learned counsel Mr. Rimita, who previously represented Hopewell filed grant of opposition to that application by Kobia, at the hearing of the application he conceded and said that the application can be dismissed in view of the death of Hopewell. It is on record of the proceedings of this case that the court on 10th March 2009 was informed by Mr. Rimita that Hopewell had died. By virtue of rule 73 of the Probate and Administration Rules, this court can deal with that summons of revocation in view of the death of Hopewell. Before however concluding this ruling, I need to comment and say that there has been undue delay in concluding this matter for reasons I cannot tell. There are four outstanding

applications which need to be dealt with to enable the administration of this estate to be concluded. Those applications that I have noted in this file are:-

1. *Chamber Summons dated 18th March 2004 filed by B.G. Kariuki Advocates.*
2. *Notice of Motion dated 27th August 2003 filed by Miss Mwangi E.G. & Co. Advocates.*
3. *Chamber Summons dated 13th August 2003 filed by Kimathi Kiara & Co. Advocates.*
4. *Summons dated 23rd April 2007 filed by Mwenda Mwarania Akwalu & Co. Advocates.*

At the reading of this ruling, I will give a date for the hearing of all those applications. I now grant the following orders:-

1. *The Summons dated 24th January 2006 is hereby struck out with no orders as to costs.*
2. *There shall be no orders as to costs in respect of the summons dated 13th October 2010.*
3. *I order that the following applications, Chamber Summons dated 18th March 2004, Notice of Motion dated 27th August 2003, Chamber Summons dated 13th August 2003 and Summons dated 23rd April 2007 be fixed for hearing at the reading of this ruling.*

Dated, signed and delivered at Meru this 17th day of March 2011.

MARY KASANGO
JUDGE