



**Karume (Suing as Administrator of the Estate of Godfrey Karume Macharia
- Deceased) v Rama & 6 others; Taura & another (Interested Parties)
(Petition 28 of 2019) [2025] KEELC 4188 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4188 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
PETITION 28 OF 2019
FM NJOROGE, J
MAY 30, 2025**

BETWEEN

**ROBERT CHARLES MUTUA KARUME (SUING AS ADMINISTRATOR OF
THE ESTATE OF GODFREY KARUME MACHARIA - DECEASED) PLAINTIFF**

AND

RICHARD PREMCHARD RAMA 1ST RESPONDENT

**MUHAMMAD UTHMAN ADAM (SUED AS THE ADMINISTRATORS
OF ESTATE OF ARBI ALI MOHAMED MUSSAMI -
DECEASED) 2ND RESPONDENT**

ALBERT MUNGUMBA KAZUNGU - CHAIRMAN 3RD RESPONDENT

**SIMEON NGOWA TABU KIRAO - SECRETARY) SUED AS OFFICIALS OF
KAOYENI COMMUNITY SELF HELP GROUP 4TH RESPONDENT**

JOHN KAZUNGU MUTSUNGA 5TH RESPONDENT

THE REGISTRAR OF TITLES 6TH RESPONDENT

THE ATTORNEY GENERAL 7TH RESPONDENT

AND

BENARD TAURA INTERESTED PARTY

THE COUNTY GOVERNMENT OF KILIFI INTERESTED PARTY



RULING

1. The Petitioner's Amended Notice of Motion Application dated 15/4/2024 has been brought under Order 51 Rule 1, Order 5 Rule 17 of the Civil Procedure Rules and Section 3A of the *Civil Procedure Act* Cap 21 Laws of Kenya. The Petitioner prays for the following orders:
 - a. THAT A.M Omwancha and Company Advocate be granted leave to serve the petition upon the second Respondent by way of substituted service through his last known address being Post Office Box no. 45787-00100 Nairobi as indicated in the petition for grant of letters of administration being Nairobi Probate & Administration Succession Cause No, E034 of 2021 and as also indicated in the grant of letters of administration issued on the 22nd June 2021 issued by the Principal Kadhis Court Nairobi.
 - b. THAT costs to this application be provided for.
2. The application is based on the following grounds:
 - a. THAT the service cannot be effected by way of the ordinary service as provided by law.
 - b. THAT efforts to trace Muhammad Uthman Adam named herein as the 2nd Respondents and their whereabouts for the purposes of service of the Court documents or process will be fruitless thereby making it difficult to effect service upon them.
 - c. THAT it was difficult to trace and ascertain the administrators of the Estate of ARBI ALI MOHAMED MUSSANI now deceased who was initially sued in the petition herein as the 2nd Respondent until Herculean efforts were made in search of the succession petition at Nairobi which had been filed by the Administrators who has now been substituted and has been enjoined as the legal representatives of the Estate of the said ARBI ALI MOHAMED MUSSANI as 2nd Respondent.
 - d. THAT the last known postal address of the 2nd Respondent the said MUHAMMAD UTHMAN ADAM has been ascertained to be Post Office Box Number 45787-00100 Nairobi as was indicated in the Petition for Grant of Letters of Administration in the Principal Kadhi's Court at Nairobi in Probate and Administration Succession Case No. E035 of 2021 as also indicated in the Grant of Letters of Administration issued on the 22nd June, 2021.
 - e. THAT therefore due to the above reasons, service upon the jointly above named 2nd Respondents cannot be effected by way of ordinary service as provided by law since it will be difficult to trace the jointly named Respondents for service of the amended petition.
3. The petitioner filed submissions dated 21/5/2025. I have considered those submissions in the preparation of this ruling. He relied on Order 5 Rule 17(1) of the Civil Procedure Rules and Samuel Mwangangi Nyete vs Esther Muthee Ndamburi 2022 eKLR to submit that other than the modes of service prescribed, the court could order service in any other manner as it may deem fit.
4. No submissions were filed by the 1st respondent to support his grounds of opposition.
5. I have considered the grounds outlined in the application. The only thing that the applicant has that can enable service on the 2nd respondent is a postal address. That postal address was supplied by the 2nd respondent in court proceedings, to wit, the succession cause in which the grant in respect of the estate of Arbi Ali Mohamed Mussani was applied for. He was one of the applicants and was named



administrator. Consequently, this court finds no good ground upon which to reject the application and I therefore grant it in terms of prayer nos 1 and 2 thereof. Service as authorized shall be undertaken within 10 days of this order and the matter shall be listed for further directions on 24th June 2025 for directions as to hearing.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 30TH DAY OF MAY 2025.

MWANGI NJOROGE

JUDGE, ELC MALINDI.

