



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI**

**civ app 239 of 90**

**MWANGI NJANGU ..... APPELLANT**

**VERSUS**

**MESHACK MBOGO WAMBUGU ..... RESPONDENT**

**RULING**

This is an application under Order 23 Rule 12 and Order 49 rule 5 of the Civil Procedure Rules to enlarge the time limited for the substitution of the legal representative and for the appointment of Damaris Wanjugu Mwangi as the legal representative for the purposes of assuming the conduct of this appeal.

It is supported by the affidavit of the said Damaris who has deponed that her mother who was appointed the Administrator of her father's estate is too old and sick to continue with this appeal, and therefore, wants her to take over its conduct.

The application is not opposed. Section 95 of the Civil Procedure Act gives this Court the power to enlarge time, and Order 23 Rule 8 (2) of the Civil Procedure Rules gives the applicant a right to apply for a renewal of an abated suit and also power to court to revive an abated suit on terms as the Court may think fit. (See also Vyatu Ltd. vs Public Trustee, Nyanza Province (C. A. 218 of 2003, Nairobi).

The application dated August 29, 2003 is, therefore, allowed as prayed with costs to the Respondent.

**Dated and delivered at Nairobi this 21st day of April, 2004.**

**ALNASHIR VISRAM**

**JUDGE**