

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT MOMBASA

PETITION NO. 7 OF 2019

JUSTIN BOSO & 2 OTHERS.....PETITIONERS

VERSUS

MWAUCHI BEMBITO & 2 OTHERS.....RESPONDENTS

RULING

(Application for substitution of the deceased 1st respondent by his legal representative; application allowed)

1. The application before me is that dated 15 October 2020 and filed on 16 October 2020. It is brought pursuant to the provisions of Order 24 Rule 4 of the Civil Procedure Rules, 2010 and the substantive order sought is that the deceased 1st respondent, Mwauchi Bembito, be substituted by one Janja Mwauchi, being his legal representative.

2. I have gone through the application and the supporting affidavit of Justin Boso, the 1st petitioner. He has deposed that upon the death of the 1st respondent, no substitution was done and they were forced to file a petition to have Janja Mwauchi nominated and appointed as legal representative. He has annexed a grant of letters of administration issued in Mombasa High Court, Succession Cause No. E002 of 2020.

3. I have looked at the grant and it does state as follows :-

“That the letters of administration for the estate of Mwauchi Bembito be granted to the nominee herein Janja Mwauchi limited for the purpose of representing the deceased in ELC Petition No. 7 of 2019.”

4. It will thus be seen that Janja Mwauchi has been appointed by a court of competent jurisdiction to represent the estate of Mwauchi Bembito. Given that position, I have no reason to deny this application and it is hereby allowed. I direct that the petition be duly amended to reflect the substitution.

5. I make no orders as to costs.

DATED AND DELIVERED THIS 20 DAY OF JANUARY 2021

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT OF KENYA

AT MOMBASA