

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL APPEAL NO. 484 OF 1999

**KIHARA NGANGA (a man of mental infirmity suing through
his next friend)**

MR. MICHAEL KIBE APPELLANT

VESUS

VERONICA WANJIRU NGANGA

MWANGI NGANGA RESPONDENTS

R U L I N G

From what has been brought to my attention, I must say I am very grateful to Mr. Kamiro who has made me know that the Applicant is not a party in these proceedings and that she is purporting to act in the place of Mwangi Ng'ang'a who died in December 2000.

When I granted certificate of urgency yesterday to this Chamber Summons dated 27th May 2003, I had not been informed the Applicant was Miriam Wahu Mwangi a person who is not a party. I therefore gave the certificate on the understanding that the Applicant was Mwangi Nganga.

From what has been brought to my attention therefore, this Chamber Summons is misconceived, incompetent and should not be entertained and same is hereby struck out with costs to the Respondent for the following reasons:

Firstly, the Applicant Miriam Wahu Mwangi not having been made a party in these proceedings has no locus to file this Chamber Summons.

Secondly: the said Miriam Wahu Mwangi having exhibited no evidence of her acquisition of a grant of letters of administration or a grant of probate to the estate of Mwangi Ng'ang'a, cannot lawfully stand in a court of law to claim that she is protecting the interests of the estate of the Deceased and may not therefore Qualify to be substituted as a party in the place of the deceased Mwangi Ng'ang'a.

Dated this 29th Day of May 2003.

J.M. KHAMONI

JUDGE