



REPUBLIC OF KENYA



KENYA LAW

THE NATIONAL COUNCIL FOR LAW REPORTING

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Karani & 2 others (All suing as personal representatives of the Estate of Karani Malongo Omolo) v Esakha & 27 others; Odhiambo (Interested Party) (Environment & Land Case 166 of 2017) [2023] KEELC 18606 (KLR) (6 July 2023) (Ruling)

Neutral citation: [2023] KEELC 18606 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT BUSIA
ENVIRONMENT & LAND CASE 166 OF 2017

BN OLAO, J

JULY 6, 2023

BETWEEN

ERNEO PAMBA KARANI 1ST PLAINTIFF
STEPHEN OUNDO BARABARA 2ND PLAINTIFF
MESHACK OUMA OMOLLO 3RD PLAINTIFF
ALL SUING AS PERSONAL REPRESENTATIVES OF THE ESTATE OF
KARANI MALONGO OMOLO

AND

SILIFANO JUMA ESAKHA 1ST DEFENDANT
PETER NDUNGU MWANGI 2ND DEFENDANT
JOSEPH MATHENGE KINYORI 3RD DEFENDANT
STEPHEN MWANI 4TH DEFENDANT
JOSEPH MISIKO OLUBERO 5TH DEFENDANT
HELLEN AJIAMBO MAKANDA 6TH DEFENDANT
OKUBASU NYONGESA MOSES 7TH DEFENDANT
WYCLIFFE AMBETSA OPARANYA 8TH DEFENDANT
JOSEPHAT JOHN MAENDE 9TH DEFENDANT
ROBERT ASIBIKO 10TH DEFENDANT
LYDIA MATENDECHERE 11TH DEFENDANT
STEPHEN WILBERFORCE AMANYA MAKOKHA 12TH DEFENDANT
RICHARD ODONGO MAKOKHA 13TH DEFENDANT



ROBERT OKOCHI BARASA	14 TH DEFENDANT
ALEX LURONGO MWINDALO	15 TH DEFENDANT
DANIEL NJOROGE WANYOIKE	16 TH DEFENDANT
KIRATHIMO SELF HELP GROUP	17 TH DEFENDANT
MASINDE AJUMA GABRIEL	18 TH DEFENDANT
ALOIS OKELLO PAMBA	19 TH DEFENDANT
VALENTINE CHERONO	20 TH DEFENDANT
MAKOKHA EUNICE AMODING	21 ST DEFENDANT
WYCLIFFE WANGA OBUNDE	22 ND DEFENDANT
TERRY ACHILA WOTSEMBO	23 RD DEFENDANT
JOHN OJUK ONGWINDI	24 TH DEFENDANT
ZACHARIA KWENDO OTIENO	25 TH DEFENDANT
JOHN RIAVI NDEDA	26 TH DEFENDANT
VALARIA MAKOKHA WAFULA	27 TH DEFENDANT
SAMUEL OGOLA OREGA	28 TH DEFENDANT

AND

MARGARET NELIMA ODHIAMBO INTERESTED PARTY

RULING

1. This is in respect to the Notice of Motion dated March 13, 2023 in which the plaintiffs seek the following orders:
 1. That leave be granted to the plaintiffs to amend the plaint dated September 26, 2017 by substituting the name of Phaustine Ounoi Ochunga With Erneo Pamba Karani and file a further list of documents.
 2. That the amended plaint annexed hereto be deemed as duly filed upon being received by the Court.
 3. That costs of the application be provided for.
2. The application is predicated upon the provisions of Section 3A of the *Civil Procedure Act* and Orders 8 and 51 of the *Civil Procedure Rules*. It is also supported by the affidavit of Meshack Ouma Omollo the 3rd plaintiff herein.
3. The gist of the application is that the Grant of Letters of Administration issued to Phaustine Ounoi Ochunga, Stephen Oundo Barabara And Meshack Ouma Omollo On April 20, 2017 In Busia Cmc Succession Cause No 552 Of 2016 Has Since Been Amended And The Said Phaustine Ounoi Ochunga is no longer an Administrator to the Estate of the deceased Karani Malongo Omolo. The Grant of Letters of Administration having been amended, it is imperative that the plaint herein be amended.



4. Annexed to the application is the original Grant of Letters of Administration issued on April 20, 2017 and the amended Grant of Letters of Administration issued on September 28, 2020.
5. When the application came up on May 9, 2023, I was informed that it had been served upon all the parties herein. None of the defendants has filed any response to the application which is therefore not opposed.
6. In the circumstances, the Notice of Motion dated March 13, 2023 is hereby allowed in the following terms:
 1. The plaint be amended as prayed.
 2. The amended plaint be filed and served upon all the defendants within 10 days of this ruling.
 3. The defendants, if they so wish shall be at liberty to file any amended defences and serve within 14 days upon service upon them of the amended plaint.
 4. All the parties are also at liberty to file and serve any further lists of witnesses and documents if necessary.
 5. Thereafter, pre-trial before the Deputy Registrar on August 1, 2023 who shall fix a hearing date.
 6. No orders as to costs.

BOAZ N. OLAO

JUDGE

6TH JULY 2023

RULING DATED, SIGNED AND DELIVERED ON THIS 6TH DAY OF JULY 2023 BY WAY OF ELECTRONIC MAIL.

BOAZ N. OLAO

JUDGE

6TH JULY 2023

