



REPUBLIC OF KENYA



KENYA LAW
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Karanja & another v Gichini & another; Muriithi (Applicant) (Succession Appeal E001 of 2025) [2025] KEHC 8224 (KLR) (11 June 2025) (Ruling)

Neutral citation: [2025] KEHC 8224 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
SUCCESSION APPEAL E001 OF 2025
DKN MAGARE, J
JUNE 11, 2025**

BETWEEN

JAMES MURIITHI KARANJA 1ST APPELLANT

ALEXANDER MWANGI KARANJA 2ND APPELLANT

AND

BENARD KIONGA GICHINI 1ST RESPONDENT

CHRISTOPHER MUCHOKI KIBUI 2ND RESPONDENT

AND

EDWARD MURIUKI MURIITHI APPLICANT

RULING

1. This is a ruling on an application dated 5.5.2025 and filed by Edward Muriuki Muriithi, the Intended 1st Appellant. The application sought the following orders:
 - i. That the intended 1st Appellant be substituted and made party herein in the place of James Muriithi Karanja who died on 20.11.2024.
 - ii. That the costs of this application be in the cause.
2. The application is supported by the Affidavit of the Applicant premised on the grounds stated inter alia as follows:
 - i. The intended 1st Appellant has already been appointed the administrator of the estate of the deceased.
 - ii. Leave of court is necessary for substitution.
3. The Respondents did not file a response to the application.



Analysis.

4. It is not in dispute that the 1st Appellant herein is deceased as can be discerned from the Certificate of Death dated 19.1.2025. He died on 20.11.2024. Order 24 of the Civil Procedure Rules propounds what ought to happen if a party or parties to a suit dies. Order 24, Rule 3 provides for procedure in case of death of one of several plaintiffs or of sole plaintiff as follows:

Where one of two or more plaintiffs dies and the cause of action does not survive or continue to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the cause of action survives or continues, the court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.

Where within one year no application is made under subrule (1), the suit shall abate so far as the deceased plaintiff is concerned, and, on the application of the defendant, the court may award to him the costs which he may have incurred in defending the suit to be recovered from the estate of the deceased plaintiff:

Provided the court may, for good reason on application, extend the time.

5. Further Order 24, rule 7 provides for effect of abatement or dismissal of the suit as follows:

7.

- (1) Where a suit abates or is dismissed under this Order, no fresh suit shall be brought on the same cause of action.

6. The Intended 1st Appellant has sought for substitution and it is not in doubt that the appeal has not abated as one year has not lapsed from the date of the deceased's demise as provided under of Order 24 Rule 7 (2) of the Civil Procedure Rules.
7. The Applicant has also obtained the letters of administration as personal representative of the estate of the deceased and I have no doubt is well suited to substituted the deceased 1st Appellant.
8. The application is therefore merited.

Determination.

9. The upshot of the foregoing is that I allow the Notice of Motion dated 5.5.2025 as follows:
- a. The Intended 1st Appellant, Edward Muriuki Muriithi be and is hereby substituted and made party herein in the place of James Muriithi Karanja who died on 20.11.2024.
 - b. Costs shall abide the outcome of the appeal.
 - c. Record be filed by 13/7/2025.
 - d. Directions on 16/10/2025.
 - e. Submissions be filed.

DELIVERED, DATED AND SIGNED AT NYERI ON THIS 11TH DAY OF JUNE, 2025. RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.

KIZITO MAGARE

JUDGE



In the presence of:-

Mr. Kimunya for the Appellants/Applicant

No appearance for the Respondents

Court Assistant – Jedidah

