



**Cheluget v Cheluget & another (Environment & Land Case  
115B of 2020) [2025] KEELC 3824 (KLR) (15 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3824 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 115B OF 2020**

**CK YANO, J**

**MAY 15, 2025**

**BETWEEN**

**DAVID KIPTOO CHELUGET ..... PLAINTIFF**

**AND**

**ABRAHAM KIPRUTO CHELUGET ..... 1<sup>ST</sup> DEFENDANT**

**JOHN KIPKEMBOI CHELUGET ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. By a Notice of Motion Application dated 15<sup>th</sup> October, 2024, the Applicant herein Hellen Chepkoech Cheluget, seeks the following orders:-
  - a. Hellen Chepkoech Cheluget be substituted for the Plaintiff as his legal representative.
  - b. The Plaint dated 05-12-2020 be amended to show the new status.
  - c. Costs of this application be in the cause.
2. In her Affidavit of even date sworn in support of the Motion, the Applicant averred that she is the Administrator Ad Litem of the Estate of David Kiptoo Cheluget who died on 15<sup>th</sup> June, 2024. She sought to be substituted in place of the Plaintiff as his Legal Representative. She deponed that the deceased is the Plaintiff in this suit which relates to UASIN GISHU/KORMAET SCHEME/X7 measuring 90.24 Acres (the suit property), which land cannot vest in his Estate prior to the hearing and determination of this suit. She deponed that the Defendants/Respondents are the registered proprietors of the suit property and shall suffer no prejudice from the orders sought in the Application. She asked the court to allow the Application with costs being in the cause. The Applicant has annexed copies of certificate of death and Grant of Administration Ad Litem issued in Eldoret High Court P & A No. E107 of 2024.



3. The Defendants/Respondents opposed the Application through a Notice of Preliminary Objection dated 15<sup>th</sup> January, 2025 asking the court to dismiss the instant Motion and the entire suit on the following grounds:-
  1. THAT the suit discloses no cause of action and the prayer sought by the Plaintiff is untenable in law.
  2. THAT the land UASIN GISHU/KORMAET SCHEME/X7 which is the subject matter of this suit is owned in common by four persons.
    - a. The Plaintiff is a proprietor in common together with the Defendants and Anna Cheluget (Deceased).
    - b. The fourth proprietor in common ANNA CHELUGET is now deceased and an order of whatever nature cannot be made against the Deceased's estate without joining her estate to the suit.
4. In further response, the Respondents also swore and filed joint a Replying Affidavit dated 21<sup>st</sup> January, 2025 where they reiterated the contents of the PO. They added that the Plaintiff only utilised 50 Acres of the land with the remaining portion utilised by the other registered proprietors. That there is no evidence that the property was solely owned by Plaintiff, thus the suit is unsustainable. They explained that they transferred part of their undivided portion to their siblings Job Kipkemei Cheluget and Mike Kipkorir Cheluget. The Respondents deponed that no Grant was issued or confirmed in the estate of the late David Kiptoo Cheluget. They averred that the suit does not disclose a cause of action as this court cannot grant the orders sought without declaring a trust, yet no such prayer is included in the pleadings. They termed the Motion and the suit an abuse of court process, and asked that they be struck out with costs.
5. The Applicant filed a Supplementary Affidavit sworn on 3<sup>rd</sup> April, 2025. She deponed that the court in a Ruling delivered on 4<sup>th</sup> May, 2022 dismissed the Defendants' Preliminary Objection dated 13<sup>th</sup> January, 2021 and also pronounced itself on the issue of joinder of Anna Cheluget. She also explained that the Deceased left a Will dated 1<sup>st</sup> July, 2022 where she was appointed as executor, alongside Geoffrey Kipkemboi Rono and John Kibiy Koskei. The said executors filed a petition for grant of probate vide Eldoret P&A No. E111 of 2024 - In the Matter of the Estate of Cheluget David Kiptoo (DCD). That there being no objection, a Grant of Probate of Written Will was issued in their favour on 4<sup>th</sup> November, 2024 and a Certificate of Confirmation of Grant issued on 7<sup>th</sup> February, 2024. She once again asked to be substituted so that the dispute over the land may be heard to its logical conclusion.
6. With leave of court granted on 7<sup>th</sup> April, 2025 the Respondents filed a Further Affidavit sworn jointly on 12<sup>th</sup> April, 2025. They deponed that in the Ruling of 4<sup>th</sup> May, 2022 the court acknowledged that the land was jointly owned and the Plaintiff was not the sole owner thereto, thus allowing that application would dispossess the other owners. Further, that it is not possible to have the entire suit property revert to the Plaintiff as sought in the Plaint without an order for severance of the tenancy in common per Section 94 of the *Land Registration Act*. They also deponed that they are contesting the will dated 1<sup>st</sup> July, 2022 and had filed a complaint with the Directorate of Criminal Investigations.
7. The Respondents alleged that the Applicant concealed the details of the probate of the Deceased's will, and they only became aware of the said proceedings when the Applicant brought it up in HCCCHRPET No. E006/2025 - Wilson Kiplagat Kalya & Karen Jerop Chesoo & 1 Other vs State Law Office, ODPP & 2 Others. They averred that the said Grant was confirmed before the expiry of the statutory 6 months period. Further, that on 10<sup>th</sup> April, 2025 Hon. Justice R. Limo stayed the operation



of the confirmed Grant, thus the Respondents will suffer prejudice if the Application for substitution is allowed. They asked this court to either stay the proceedings in this suit pending the determination of Eldoret P&A No. E111 of 2024, or in the alternative, strike out the instant Application with costs.

### **Submissions.**

8. The Application was canvassed by way of written submissions. Both the Applicant and the Respondents filed two separate submissions for the Notice of Motion and the Notice of Preliminary Objection.

### **Applicant's Submissions.**

9. The Applicant's submissions on the Notice of Motion are dated 3<sup>rd</sup> April, 2025. Counsel cited Order 24 Rule 3(1) of the Civil Procedure Rules on substitution of a deceased Plaintiff with their legal representative. Counsel submitted that Section 82(a) of the *Law of Succession Act* grants Legal Representatives power to continue legal proceedings on behalf of the deceased. Counsel submitted that the Applicant had obtained a Limited Grant of Letters of Administration Ad Litem, as well as a Grant of Probate which had since been confirmed. Further, that the suit survives the Plaintiff and has yet to be extinguished by his demise. Counsel argued that the Applicant had obtained the requisite Grant, proving her legal capacity to substitute the deceased Plaintiff (Trouistik Union International & Another vs Jane Mbeyu & Another (1993) eKLR).
10. Counsel also submitted that the Respondents have not denied that the Applicant is a beneficiary of the deceased's estate neither have they challenged the Grant Ad Litem. She argued that the Respondents have also not indicated why the Applicant is an undeserving party for the substitution. She pointed out that the instant Motion had been filed within one year from the time of the Plaintiff's death. She urged the court to find that the Applicant has met the threshold for substitution and allow the Application as prayed. Counsel relied on Julian Adoyo Ongunga & Another vs Francis Kiberenge Bondeva (Suing as the Administrator of the Estate of Fanuel Evans Amudavi, Deceased) (2016) eKLR.
11. The Submissions on the PO are also dated 3<sup>rd</sup> April, 2025. Counsel for the Applicant submitted that it had failed to meet the test set out in Mukisa Biscuit Manufacturing Co. Ltd vs West End Distributors Limited (1969) EA 696 and should be dismissed with costs. She further submitted that the Plaintiff's case is tenable in law and discloses a cause of action against the Respondents. She contended that under Article 50 of *the Constitution* of Kenya, everyone is entitled to a fair trial thus a suit may only be struck out as a last resort and in the clearest of circumstances. Counsel relied on D.T. Dobbie & Company (Kenya) Limited vs Joseph Mbaria Muchina & Another (1980) KECA 3 (KLR), Gladys Jepkosgei Boss vs Star Publication Limited (2021) eKLR and Blue Shield Insurance Company Ltd vs Joseph Mboya Oguttu (2009) eKLR.
12. On costs, Counsel cited Section 27 of the *Civil Procedure Act* that costs follow the event. She relied on Narok County Government vs Livingstone Kunini Ntutu & 2 Others (2018) eKLR and Jasbir Singh Rai & 3 Others vs Tarlochan Singh Rai & 4 Others (2014) eKLR.

### **Respondents' Submissions.**

13. The Respondents' Submissions on the Notice of Motion are dated 13<sup>th</sup> March, 2025. Counsel started by faulting the Applicant for not joining Anne Cheluget, the fourth registered proprietor of the land to this suit. They reproduced a paragraph in the Encumbrance Section of the Title Deed that requires the presence of the registered owner before the Lands Registrar before any dealings can be transacted. They relied on Moses Bii vs Kericho District Land Registrar & Another (2015) eKLR and Josephat



Thuo Githachuri vs James Gaitho Kibue & Another; Gladys Nduta Mbugua (Interested Party) (2021) KEELC 1951 (KLR).

14. Counsel for the Respondents reiterated that the reliefs sought in the main suit are legally untenable. Further, that where the reliefs are incapable of being granted in law, substitution cannot cure the defect and neither can it validate the suit, thus the suit must fail. Counsel cited the case of Kenya Farmers Cooperative Union Ltd vs Charles Murgor (Deceased) T/A Kiptabei Coffee Estate (2005) eKLR. Counsel prayed that the instant Application and the entire suit be dismissed with costs to the Respondents.
15. In the Respondents' Submissions on the PO dated 4<sup>th</sup> April, 2025, Counsel reiterated that the suit filed is not tenable and cannot be cured by substitution. Further reiterating his earlier submissions and authorities, counsel submitted that without the fourth Co-owner being joined, the orders granted will be detrimental to the estate of the late Anne Cheluget as it will not be represented in the instant application and this suit. He urged the court to uphold the PO dated 15<sup>th</sup> January, 2025 and dismiss the Application as well as the main suit.

### **Analysis and Determination.**

16. This Court has read and considered the Notice of Motion and Affidavits in support thereto, the Responses filed, the Notice of Preliminary Objection, as well as the Submissions and finds that the issues for determination are:-
  - i. Whether the Defendants'/Respondents' Preliminary objection has merit
  - ii. Whether the name of the Plaintiff should be substituted with the Applicant herein
  - iii. Whether the estate of the late Anna Cheluget should be joined to this suit

### **Whether the Defendants'/Respondents' Preliminary objection has merit**

17. In part response to the instant Motion, the Respondents raised a PO dated 15<sup>th</sup> January, 2025 on the grounds enumerated above. By its very nature, a preliminary objection should be dealt with separately, before any other issue in the proceedings is examined. This is because if it succeeds, it will have disposed of the entire suit herein and there would be no need to consider the instant Motion. Therefore, this court will first proceed to make its determination on the said PO before delving into the merits of the Application.
18. The two main grounds of objection raised are that the suit discloses no cause of action; and the failure to join the estate of the late Anna Cheluget, the 4<sup>th</sup> Co-owner of the suit property.
19. The Supreme Court of Kenya in Hassan Ali Joho & another vs Suleiman Said Shahbal & 2 others (2014) eKLR, while defining a preliminary objection held thus:-

“To restate the relevant principle from the precedent-setting case, Mukisa Biscuit Manufacturing Co Ltd vs West End Distributors (1969) EA 696:

‘a preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit. Examples are an objection to the jurisdiction of the court or a plea of limitation or a submission that the parties are bound by the contract giving rise to the suit to refer the dispute to arbitration...



a preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion’.”

20. From the above text, it is clear that a Preliminary Objection cannot be raised if any facts have to be ascertained from elsewhere or the court is called upon to exercise judicial discretion. The law is that whenever a preliminary objection is raised, it should be capable of disposing the matter preliminarily without the Court having to result to ascertaining the facts from elsewhere apart from looking at the pleadings.
21. In the instant case, it goes without saying that to determine whether the suit herein raises a cause of action or is tenable in law, this court will have to look at not just the pleadings but the documents so far filed in court to reach a finding. Similarly, with regards to the alleged ownership of the suit land, the court will have to delve into matters of facts and consider the evidence provided herein.
22. Additionally, in the Mukisa Biscuits Case (Supra), the court held that a preliminary objection is argued on the assumption that all the facts pleaded by the other side are correct. This is not the case in this suit, as the Respondents herein are clearly opposed to the facts as pleaded by the Plaintiff in the main suit.
23. That aside, the second ground of objection is with regards to the fact that the 4<sup>th</sup> Co-owner of the suit property has not been joined to this suit. The failure to join a party is however not fatal to a suit, and to this end, I would point the Respondents towards Order 1 Rule 9 of the Civil Procedure Rules which provides that:-
  9. Misjoinder and non-joinder [Order 1, rule 9]

No suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.
24. Therefore, the fact that the estate of the late Anna Cheluget was not included as a party to this suit is not in and of itself a preliminary point capable of having this suit determined preliminarily or being struck out at this point.
25. Moreover, I have perused the record of this suit and note that the Respondents raised a Notice of Preliminary Objection dated 13<sup>th</sup> January, 2021. Among the grounds raised therein is the failure to join Anna Cheluget, the 4<sup>th</sup> Co-owner of the suit land to this suit and that no orders or dealings should be done in her absence or without joining her estate to the suit.
26. On 4<sup>th</sup> May, 2022, this court, though differently constituted, delivered its ruling on the said Preliminary Objection dated 13<sup>th</sup> January, 2021 and at paragraph 9(c) thereof, held that:-

“That with the decisions in the above cases in mind I find the grounds raised in the preliminary objection herein do not raise any pure points of law that can be capable of disposing of the Plaintiff’s claim in its entirety. I also note that the grounds outlined in the notice of preliminary objection would require the ascertainment of facts through evidence. That this being the case, the said preliminary objection contravenes the cardinal rules that preliminary objections ought to be raised where the facts do not need ascertainment. In Oraro vs Mbaja (2005) eKLR the court made the following observation as relates to the grounds to be raised in a preliminary objection:



‘I think the principle is abundantly clear. A “preliminary objection”, correctly understood, is now well identified as, and declared to be a point of law which must not be blurred with factual details liable to be contested and in any event, to be proved through the processes of evidence. Any assertion which claims to be a preliminary objection, and yet it bears factual aspects calling for proof, or seeks to adduce evidence for its authentication, is not, as a matter of legal principle, a true preliminary objection which the Court should allow to proceed. I am in agreement with learned counsel, Mr. Ougo, that “where a Court needs to investigate facts, a matter cannot be raised as a preliminary point”.’

That in view of the foregoing, I find that the defendants’ preliminary objection dated 13<sup>th</sup> January, 2021 has no merit, and is hereby dismissed.”

27. The Respondents have again raised a Preliminary objection on the very same issues and in the very same manner. The law on Preliminary Objections has not changed since the delivery of the prior ruling, which for the avoidance of doubt, I agree with. It is unfortunate that the Respondents did not argue the instant Application on its merit, and instead chose to argue matters that had already been determined by this same court on merits.
28. Be that as it may, I do find that the Respondents’ Preliminary objection does not meet the test for a proper Preliminary objection, and that in addition, the points raised are without merit. For the foregoing reasons, the Preliminary objection must fail.

#### **Whether the name of the Plaintiff should be substituted with the Applicant herein**

29. Although the Respondents herein could not resist the temptation to wade into the merits of the main suit, the matter before me is simply whether to allow the application for the substitution of the Plaintiff with the Applicant herein and whether the consequential order of amendment of the Plaintiff ought to be granted.
30. Order 24 of the Civil Procedure Rules, 2010 sets out the procedure to be followed when a party or parties to a suit die. In particular, Order 24, Rule 3 provides for procedure in case of death of a Plaintiff or of several Plaintiffs as follows:
  3. Procedure in case of death of one of several plaintiffs or of sole plaintiff [Order 24, rule 3]
    - (1) 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.
    - (2) 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.
31. In her Application, the Applicant has sought to be substituted with David Kiptoo Cheluget (Deceased), the original Plaintiff herein. As matters stand, the Respondents did not deny that the cause of action survives the deceased. Indeed, from the Certificate of Death annexed to the Application, the



- late David Kiptoo Cheluget died on 15<sup>th</sup> June, 2024. The Application for substitution was filed on 3<sup>rd</sup> December, 2024 which is almost 6 months from his demise. The suit had not yet abated as at that time.
32. The Applicant herein seeks to be substituted on the grounds that she is the legal representative of the estate of the late David Kiptoo Cheluget. The Applicant has produced in evidence a copy of the Grant of Letters of Administration Ad Litem issued on the 22<sup>nd</sup> day of September, 2024 in Eldoret HC P&A No. E107 of 2024. Being a special grant, it follows that it need not be confirmed as the Respondents seemed to be purporting. This confirms that at the time she applied for substitution, she had authority and the requisite locus standi to represent the estate of the Deceased Plaintiff, David Kiptoo Cheluget.
33. In addition, on 4<sup>th</sup> November, 2024 the Applicant, alongside her Co-executors obtained a Grant of Probate of Written Will over the deceased Plaintiff's estate which was issued in Eldoret HC P&A No. E111 of 2024. The Grant of Probate was confirmed on 7<sup>th</sup> February, 2025, cementing the Applicant's authority and viability for substitution herein. The allegations that the Grant was confirmed before the requisite period of 6 months, whether true or not, is a matter for the probate court to deliberate, and not this court.
34. The Respondents have also raised questions over the position of the Applicant to apply for substitution based on the fact that the Grant of Probate is being contested. The fact remains however, that the said Grant of Probate has not been revoked or annulled. Therefore, even though the High Court stayed the operation of the Grant of Probate, the Applicant remains as executor of the estate until such a time that she will be removed from her position.
35. Nevertheless, when there is a dispute as to the representation of an estate, Order 24 Rule 5 provides that: -
5. Determination of question as to legal representative [Order 24, rule 5]
- Where a question arises as to whether any person is or is not the legal representative of a deceased plaintiff, or a deceased defendant, such question shall be determined by the court.
36. Exercising this power, I have no doubt in my mind that the Applicant is still the legal representative of the estate of the deceased Plaintiff. It therefore follows that she is the right person to be substituted in place of the Plaintiff.
37. The arguments by the Respondents that allowing the prayers in the Plaint will dispossess the other co-owners of their alleged entitlement to the suit property are matters to be determined at the hearing of the case.
38. In the meantime, the fact remains that the Plaintiff having died and being survived by this suit, the Applicant as legal representative of his estate is well within her rights to seek to be substituted in his stead. I will therefore allow the prayer for substitution as prayed, and the accompanying prayer for amendment of the Plaint only in so far as to indicate the said substitution.

### **c. Whether the estate of the late Anna Cheluget should be joined to this suit**

39. It is trite that no party shall be condemned unheard. However, I must point out that this is a case and not a transaction in the terms of the paragraph of the encumbrance section of the title deed repeatedly referred to by the Respondents.
40. That aside it is true that though Anna Cheluget is one of the registered proprietors of the suit property, she was not included in this suit and neither was her estate. Any decision reached in this suit in the absence of the said co-owner, would be in violation of her right and that of her estate to be heard. There can be no more serious violation than where a party has been condemned unheard.



41. I note that the issue of ownership of the suit property was first raised in the Plaint dated 5<sup>th</sup> December, 2020. The Plaintiff acknowledged at paragraph 8 thereof that the suit property is owned in common by himself, the Defendants and the late Anna Cheluget. The Respondents again brought it up in their PO dated 13<sup>th</sup> January, 2021 where they decried the failure by the Plaintiff to join the said estate in these proceedings.
42. Contrary to averments by the Applicant, the Court in its ruling of 4<sup>th</sup> may, 2021 never dealt with the issue of joinder of the estate of the late Anna Cheluget into these proceedings. It is also unfortunate that 4 years later, none of the parties herein, not even the Defendants who seem to be fixated on that fact, have taken any steps to include the said estate to this suit.
43. Nevertheless, I do feel that it is necessary at this point to deal with this issue once and for all, so that the suit may proceed for hearing and determination on its merit with all the relevant parties present.
44. Joinder of parties is governed by Order 1 of the Civil Procedure Rules. To be precise, on joinder of defendants, Order 1 Rule 3 provides that:-
3. Who may be joined as defendants [Order 1, rule 3]  
All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if separate suits were brought against such persons any common question of law or fact would arise.
45. Joinder of parties is therefore permitted by law and it can be done at any stage of the proceedings. The determining factor in joinder of parties is that a common question of fact or law would arise between the existing and the intended parties.
46. The Applicant herein did not include a prayer for joinder of the estate of Anna Cheluget. I have scoured the entire file and have not come across any application by the Plaintiff or the Respondents for joinder. This issue was however raised in the PO and the Respondents extensively submitted on it. In addition, Order 1 Rule 10(2) provides that:-
10. Substitution and addition of parties [Order 1, rule 10]
    - (2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.
    - (3) ...
    - (4) Where a defendant is added or substituted, the plaint shall, unless the court otherwise directs, be amended in such manner as may be necessary, and amended copies of the summons and of the plaint shall be served on the new defendant and, if the court thinks fit, on the original defendants.
47. Order 1 Rule 10(2) empowers the court, of its own motion, to add a party to the suit either as a plaintiff or a defendant, if their presence in the case is necessary for the determination of the real matter in dispute or whose presence is necessary in order to enable the court to effectively and completely adjudicate upon and settle all questions involved in the suit. Where a person is to be added as a



defendant, there must be a relief flowing from that defendant to the plaintiff, and it must be clear also that the ultimate order or decree cannot be enforced without their presence in the matter.

48. Seeing as the Plaintiff in this suit seeks to have the entire land revert to him, it was incumbent on him to include all the other co-owners to present their case on the same and defend their interests on the land. Should the court determine at the end of the hearing that the land ought to fully revert back to the Plaintiff, there is no doubt that the estate of the late Anna Cheluget will be negatively affected by the deprivation of its portion of the land. It is therefore evident that her presence in the suit through her estate's representative is necessary for the determination of the matters in dispute herein.
49. This Court has a duty under Article 159(2)(d) to ensure that justice is administered without undue regard to procedural technicalities. I am also bound to abide by the overriding objectives set out at Section 1A and 1B of the *Civil Procedure Act*. Moreover, under Section 3A thereof, the court has inherent power to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.
50. Consequently, in exercise of the powers granted under Order 1 Rule 10(2), and in further exercise of the inherent power of the court, I will proceed to join the estate of the said Anna Cheluget to these proceedings as the 3<sup>rd</sup> Defendant.

#### **Orders.**

51. The upshot is that the Respondents' PO is not merited. On the other hand, the Applicant's Notice of Motion dated 15<sup>th</sup> October, 2024 has merit. I also find that the Respondents have not adduced any valid grounds as to why the said application should not be granted. Consequently, the application succeeds and I make the following orders:
  - i. The Respondent's Notice of Preliminary Objection dated 15<sup>th</sup> January, 2025 is without merit and is dismissed
  - ii. The name of the Plaintiff herein David Kiptoo Cheluget (deceased) be and is hereby substituted with the name of the Applicant Hellen Chepkoech Cheluget
  - iii. The Applicant is directed to immediately and not later than 30 days from the date hereof, file an Amended Plaint to reflect the change of the Plaintiff from the deceased to the said Hellen Chepkoech Cheluget
  - iv. The estate of the late Anna Cheluget is hereby joined to this suit as a 3<sup>rd</sup> Defendant, and the Applicant is hereby directed to ensure that the pleadings are amended to reflect the said joinder.
  - v. Costs of the application and the PO shall be in the cause.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET ON THIS 15<sup>TH</sup> DAY OF MAY, 2025 VIDE MICROSOFT TEAMS.**

**HON. C. K. YANO**

**ELC, JUDGE**

