



**Republic v Nakuru Municipality Land Dispute Tribunal & 3 others;
Ebweee – Exparte (Subject) (Judicial Review Miscellaneous Application
40 of 2014) [2025] KEHC 10744 (KLR) (23 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10744 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
JUDICIAL REVIEW MISCELLANEOUS APPLICATION 40 OF 2014**

**PN GICHOHI, J
JULY 23, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

**NAKURU MUNICIPALITY LAND DISPUTE TRIBUNAL 1ST RESPONDENT
DAVID KARIUKI KIAMBUTHI 2ND RESPONDENT
CHIEF MAGISTRATES NAKURU 3RD RESPONDENT
ATTORNEY GENERAL 4TH RESPONDENT**

AND

BEN MARE EBWEEE – EXPARTE SUBJECT

RULING

1. Before this Court is the ex - parte Applicant’s Chamber Summons dated 4th March, 2024, brought under Section 14 of the Civil Procedure Act and Order 1 Rule 14 of the Civil Procedure Rules, seeking for Orders that: -
 1. The subject herein be substituted in these proceedings by his son Eric Mare.
 2. The costs of this Application be in the cause.
2. The grounds are on the face of the Chamber Summons and Supporting Affidavit sworn by Eric Mare on even date.



3. He states that Ben Mare Ebwee, the Ex parte Applicant has passed away on 31st March, 2023 and being his biological son, he has sought and obtained a limited grant of Letters of Administration Ad Litem on 14th February, 2024, and therefore, he is competent to substitute his late father.
4. He contends that failure to substitute the deceased herein will hinder the conduct of this matter. He thus urges this Court to allow the application as prayed.
5. Despite service of the application upon the Respondents, no response was filed and none attended this Court.

Analysis and determination

6. The only issue for determination herein is whether the Order for substitution should issue.
7. Order 24, rule 3 of the [Civil Procedure Rule, 2010](#), provides for procedure in case of death of one of several Plaintiffs or of sole Plaintiff as follows:-
 - “ 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.”
8. In this case, the ex parte Applicant, Ben Mare Ebwee died on 31st March, 2023 as evidenced by the Death Certificate attached. The Grant of Letters of Administration Ad Litem was issued to Eric Mare on 14th February, 2024, while the current Application was filed on 4th March, 2024, which actions have all be done within the one year provided for under Order 24 Rule 3 of the [Civil Procedure Rules](#).
9. The purpose of the said Grant is limited to pursuing Nakuru High Court Judicial Review Misc.. Application No. 40 of 2014. In the circumstances, the application for for substitution is merited and is allowed as follows:-
 1. Eric Mare, be and is hereby allowed to substitute the ex- parte Applicant Ben Mare Ebwee who has since passed on.
 2. Costs be in the cause.

DATED, DELIVERED AND SIGNED AT NAKURU THIS 23RD DAY OF JULY, 2025.

PATRICIA GICHOCHI

JUDGE

In the presence of:

Eric Mare

N/A for the Respondents



