



**Koinange & 14 others v Koinange (Civil Case 66 of 1984)  
[2024] KEHC 13071 (KLR) (Civ) (18 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13071 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL**

**CIVIL CASE 66 OF 1984**

**PM NYAUNDI, J**

**OCTOBER 18, 2024**

**BETWEEN**

**JOHN MBIYU KOINANGE ..... 1<sup>ST</sup> APPLICANT**  
**EDWIN MBIYU KOINANGE ..... 2<sup>ND</sup> APPLICANT**  
**WILFRED MBIYU KOINANGE ..... 3<sup>RD</sup> APPLICANT**  
**NOAH KARUGA KOINANGE ..... 4<sup>TH</sup> APPLICANT**  
**JOSEPH KARUGA KOINANGE ..... 5<sup>TH</sup> APPLICANT**  
**JAMES NJOROGE KOINANGE ..... 6<sup>TH</sup> APPLICANT**  
**RAYMOND NJOROGE KOINANGE ..... 7<sup>TH</sup> APPLICANT**  
**LEONARD KARUGA KOINANGE ..... 8<sup>TH</sup> APPLICANT**  
**GODFREY THARUBA KOINANGE ..... 9<sup>TH</sup> APPLICANT**  
**WANJIRU GATHIOMI KOINANGE ..... 10<sup>TH</sup> APPLICANT**  
**NYAMBURA MBIYU KOINANGE ..... 11<sup>TH</sup> APPLICANT**  
**JOYCE KAGENDO KOINANGE ..... 12<sup>TH</sup> APPLICANT**  
**PHYLLIES WAMBUI KOINANGE ..... 13<sup>TH</sup> APPLICANT**  
**ELIZABETH GATHONI KOINANGE ..... 14<sup>TH</sup> APPLICANT**  
**ANNASTASIA WANJIRU - REPRESENTING ESTATE OF THE 4<sup>TH</sup>  
APPLICANT ..... 15<sup>TH</sup> APPLICANT**

**AND**

**CHARLES KARUGA KOINANGE ..... RESPONDENT**



## RULING

1. This ruling relates to Summons dated July 19, 2024 presented under Article 159 (2)(d) of the *Constitution of Kenya*, Sections (sic) 59, 63 and 73 of the *Probate and Administration Rules*, Sections 1A, 1B and 3A of the *Civil Procedure Act* and Order 1 Rules 10 (2) and 25 of the *Civil Procedure Rules*.
2. The 4<sup>th</sup> Applicant having died, the Applicant seeks to substitute him as a party herein. She is the Administrator of his estate. Consequent to this prayer being granted she seeks that the Court be pleased to hear Application dated 3<sup>rd</sup> November 1993 and set aside the Elders award adopted on May 1992.
3. She also seeks to set aside the ruling of the Court delivered on 30<sup>th</sup> December 1992 pursuant to decree issued on 9<sup>th</sup> June 1992 alongside the consequential orders.
4. The basis of the Application is that the 4<sup>th</sup> Applicant's Application dated 3<sup>rd</sup> November 1993 has not been heard. The Applicant invokes the Courts inherent powers to deliver substantial justice without having undue regard to technicalities.
5. To avail herself of the exercise of the Courts discretion in her favour, the Applicant has to meet the first hurdle which is the justifiability of her application. However, her contention that the Application dated 3<sup>rd</sup> November 1993 has not been prosecuted is not true. On 2<sup>nd</sup> November 1995, the Court delivered its ruling on that application after the Applicant argued it on 18<sup>th</sup> July 1995.
6. The Court noted that there was delay in presenting that application as the decree had already been executed and estate distributed. There was inordinate delay on the part of the Applicant. The Court further observed that there was no objection to the award at the time. The Court then reiterated one of the tenets of our justice system, which is that litigation must come to an end and categorically stated that the Application was an abuse of the Court Process. Leave was granted to appeal, it appears the Applicant then, did not pursue the appeal.
7. Clearly, this is therefore an attempt by the Applicant herein to resurrect a matter that was laid to rest almost 29 years ago. I have no hesitation in dismissing the application as lacking merit.
8. The Application dated July 19, 2024 is dismissed in its entirety, there shall be no order as to costs.

File closed. It is so ordered

**SIGNED DATED AND DELIVERED IN VIRTUAL COURT THIS 18TH DAY OF OCTOBER, 2024.**

**P. NYAUNDI**

**JUDGE**

In presence of: -

Fardosa Court Assistant

.....Advocate for Applicant

.....Advocate for Respondent

