



**Karuga v Karuga; Karuga (Intended Substitute of Margaret Wambui Karuga) (Applicant)
(Civil Appeal 94 of 2017) [2023] KEHC 19972 (KLR) (20 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 19972 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL 94 OF 2017
DO CHEPKWONY, J
JUNE 20, 2023**

BETWEEN

JACINTA WAIRIMU KARUGA APPELLANT

AND

MARGARET WAMBUI KARUGA RESPONDENT

AND

**ROSEMARY NYAMBURA KARUGA (INTENDED SUBSTITUTE OF
MARGARET WAMBUI KARUGA) APPLICANT**

RULING

1. This matter is for hearing of the Notice of Motion application dated November 30, 2021 in which the Applicant is seeking for Orders that:-
 - (1) The orders issued on June 10, 2021 whereby the Notice of Motion dated July 30, 2019 was struck out and the honourable court be pleased to reinstate and/or revive the application.
 - (2) Upon grant of Prayer No.(1), his Honourable Court be pleased to enlarge time within which to file the application for substitution of the Respondent Margaret Wambui Karuga(now deceased).
 - (3) Upon grant of Prayer No.(2) above, the Honourable Court be pleased to substitute Rosemary Nyambura Karuga(the Legal Representative of the Respondent, Margatet Wambui Karuga,now deceased) with Margaret Wambui Daruga (now deceased)



2. The application is supported by the grounds set out on its face and Supporting Affidavit sworn by the Intended Substitute Party, Rose Mary Nyambura Karuga. The gist of the application being that the Intended substitute is necessary for the complete and effective adjudication and determination of the main suit. The hearing Notice was served upon the respondent as confirmed by counsel for the applicant with an affidavit of service dated May 29, 2023. The respondent and counsel have not filed any response to the 2nd application. They have also not attended court or sent representation to explain the absence.
3. In the circumstances, the application is unchallenged and proceed to allow the same in the following terms:-
 - a) That the orders issued on June 10, 2021 whereby the Notice of Motion dated July 30, 2019 was struck out be and are hereby set aside and the application reinstated and/or revived.
 - b) That upon grant of Prayer No.(1), the time within which to file the application for substitution of the respondent Margaret Wambui Karuga(now deceased) is hereby enlarged.
 - c) Having granted Prayer No.(2) above, the Intended Substitute Party, Rosemary Nyambura Karugabe and is hereby substituted with Margaret Wambui Karuga(now deceased) as Legal Representative of the respondent.
 - d) Costs to be in the cause.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 20TH DAY OF JUNE, 2023.

D. O. CHEPKWONY

JUDGE

In the presence of:

M/S Wambura holding brief for Mr. Njuguna for the Appellant

Court Assistant – Martin/Nancy

