



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**PETITION 5 OF 2014**

**BERANO M'MWITHIGA M'ARAUKI.....PETITIONER**

**VERSUS**

**DISTRICT LAND ADJUDICATION &**

**SETTLEMENT OFFICER TIGANIA EAST AND WEST.....1<sup>ST</sup> RESPONDENT**

**THE HON. ATTORNEY GENERAL.....2<sup>ND</sup> RESPONDENT**

**PETER IMATHIU.....3<sup>RD</sup> RESPONDENT**

**RULING**

1. On 25.6.2020 counsel for the 3<sup>rd</sup> respondent requested this court to mark the case against 3<sup>rd</sup> respondent as abated since their client died on 14.4.2018. Counsel for petitioner averred that they have already filed a succession citation no. 63 of 2019 which was to be heard on 23.4.2020 but due to covid pandemic it was not heard.
2. Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> respondents avers that their client should also be exonerated as they have no interest in the matter.
3. On 13.5.2019, this court was informed that the 3<sup>rd</sup> respondent died on 14.4.2018. In terms of **order 24 rule 4 (3)** of the Civil Procedure Rules, the suit against that party has abated. It matters not that the petitioner has filed a citation to bring a representative of 3<sup>rd</sup> respondent on board this suit. The fact remains that there is no suit hence even with a grant a revival of the suit would be necessary.
4. I desist from making any orders regarding the case against the other respondents at this stage.
5. In the circumstances the suit against 3<sup>rd</sup> respondent is marked as **ABATED**.

**DATED, SIGNED AND DELIVERED AT MERU THIS 14<sup>TH</sup> DAY OF JULY, 2020**

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**

**ORDER**

The date of delivery of this ruling was given on 25.6.2020 in the presence of advocates for the parties. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17<sup>th</sup> March, 2020 and published in the Kenya Gazette of 17<sup>th</sup> April 2020 as Gazette Notice no.3137, this ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the **Civil Procedure Rules** which requires that all judgments and rulings be pronounced in open court.

**HON. LUCY N. MBUGUA**

**ELC JUDGE**