



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT AT KERICHO

CIVIL SUIT NO. 28 OF 2014

EUNICE CHEPNGETICHPLAINTIFF

VERSUS

TAPNYOBII CHEBII NGASURA.....1ST DEFENDANT

PHILEMON ROTICH ALIAS DAVID.....2ND DEFENDANT

RULING

(Application for substitution; plaintiff having died; applicant holding grant of letters of administration ad litem; application unopposed; application allowed)

The application before me is that dated **20th February, 2015** filed by one Benard Kibet Rono. The applicant wants orders that he be made a party to this suit in place of the plaintiff, Eunice Chepngetich Ngasura, who is said to be deceased. Several grounds have been listed in support of the application and the application is supported by the affidavit of the applicant.

This suit was commenced on **27th June, 2014**. The original plaintiff averred that she is the daughter of the 1st defendant and sister to the 2nd defendant. The subject matter of the suit is the land **parcel Kericho/Silibwet/33** measuring approximately 6.5 acres and which is in the name of the 1st defendant. The case as pleaded is that the plaintiff is entitled to 2 acres of it and that the 1st defendant is merely holding the land in trust.

As the matter was pending, the plaintiff died on **19th September 2014**. On **9th February 2015**, the applicant was granted letters of administration ad litem, vide **Kericho High Court, Ad Litem Cause No. 11 of 2015**. Through this application, the applicant wants to be substituted for the deceased plaintiff and continue this suit for the benefit of the estate of the deceased.

The application is not opposed by the defendants. On my part I do not see any reason to deny it. **Order 24 Rule 3** does allow a legal representative of a deceased party to be made party to the proceedings if the cause of action survives the death of the litigant. The application has been made within one year of death as contemplated by the Rules. It is hereby allowed. I however make no orders as to costs.

I direct that the plaintiff does proceed to amend the plaint to reflect the change in circumstances within 14 days of today.

It is so ordered.

Dated, Signed and delivered on this 8th Day of May, 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

PRESENT

Ms. Misoi for the defendant/Respondent

No appearance for M/s Kipkorir Tele & Kitur Advocates for Plaintiff/Applicant

C/c; Miriam Sitienei