



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**HCC 68 OF 2002**

**M'ANAMPIU M'MUKINDIA .....PLAINTIFF**

**VERSUS**

**FRANCIS M'RINGERA M'RIMBERIA.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**STANLEY MWENDA .....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**AND**

**JOHN MARETE ANAMPIU & STANLEY**

**KAREMU ANAMPIU .....LEGAL REPRESENTATIVES/APPLICANTS**

**RULING**

This application has been brought pursuant to Section 1A,1B,3A,63 (c ) and (e), 95 and 100 of the Civil Procedure Act, Order 8 Rule 3 and 5 and Order 50 Rule 6 of the Civil Procedure Rules and Articles 10, 25(c ), 50 (1) and 159 of the Constitution of Kenya. The application seeks orders:-

1. ***THAT the application be certified extremely urgent and it be heard on priority basis .***
2. ***THAT the Plaintiff/ Applicant be granted extension/ enlargement of time within which to amend the Originating Summons on record.***
3. ***THAT costs of the application be in the cause.***

The application is supported by the affidavit of STANLEY KAREMU ANAMPIU and has the following grounds:-

1. ***THAT leave granted to amend the originating summons, vide a Ruling delivered herein on 29.09.2011, has since lapsed.***
2. ***THAT the new Plaintiffs/Applicants became aware of the above requirement on 11.08.2015 through their present counsel who perused the Court file upon filing a notice of change of advocates and realized the same.***
3. ***THAT the original Plaintiff and the 1<sup>st</sup> Defendant are deceased.***
4. ***THAT the new Plaintiffs/Applicants were allowed to substitute the deceased Plaintiff.***
5. ***THAT from 29.09.2011, the matter has been in Court on several occasions.***
6. ***THAT the application is made in utmost good faith, and in the interest of justice, since the Court has absolute discretion to grant the relief sought.***

During Interpartes hearing on 7/10/2015, the Advocate for the respondents did not attend Court. The Respondents were also not in Court.

Mr. Rimita who was holding brief for Advocate Carlpeters Mbaabu, for the Applicant, told the Court that the application was not opposed and urged the Court to allow the application.

I find that the application is not opposed. In the Circumstances, **the application is allowed. Costs shall be in the cause.**

**It is so ordered.**

**Delivered in open Court this 8<sup>th</sup> day of October, 2015 in the presence of:-**

CC: Lilian /Daniel

Ondari h/b Carlpeters Mbaabu for Applicant.

Muthomi present for Respondents.

**P.M.NJOROGE**

**JUDGE**