



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**CIVIL SUIT NO. 70 OF 2012**

GEORGE GATEMBO (Suing as the legal representative of  
the estate of Joseph Muguna (deceased))..... PLAINTIFF

VERSUS

ELIJAH MUTEKI M'RWITO.....1ST DEFENDANT  
M'MUGANE M'RUTERE.....2ND DEFENDANT  
HENRY KIAMBI.....3RD DEFENDANT  
JAPHET GAKURU MABURIA.....4TH DEFENDANT  
SHEDRACK KIRUKI M'LAARIA.....5TH DEFENDANT  
M'KIRERA M'ANGARE.....6TH DEFENDANT  
RUFA M'ARIGO.....7TH DEFENDANT  
FRANCIS M'IKIUGU M'MUTHURI.....8TH DEFENDANT  
JOSPHAT MURIUKI RIURA.....9TH DEFENDANT  
FREDRICKKIOGORA GITONGA.....10TH DEFENDANT  
GEOFFREY KOOME MBAYA.....11TH DEFENDANT

**R U L I N G**

During Cross-examination of DW1, an objection was raised by Mr. Riungu that Mr. Mwanzia for the Plaintiff had delved into asking questions concerning the 1st Defendant, deceased, whose case had been withdrawn by the Plaintiff. I sustained the objection. Mr. Mwanzia has challenged my ruling which sustained the objection. He further added that in cross-examination of a witness, he is entitled to ask anything under the sun including what breakfast the witness ate in the morning. I do not agree.

Mr. Mwanzia has asked that a copy of this ruling be availed to him to enable him to appeal. He has also sought leave to appeal against my ruling that sustained the apposite objection.

I direct as follows:

1. *A certified copy of this ruling be availed, at the normal cost, to Mr. Mwanzia, the plaintiff's advocate.*
2. *Leave to appeal the ruling sustaining the objection is granted.*

It is so ordered.

**Delivered in Open Court at Meru this 2nd day of November, 2015 in the presence of:**

Cc. Lilian/Daniel

Mwanzia for Plaintiff's

Mwirigi for 2nd, 6th, 9th, 10th and 11th Defendants

Riungu for 5th Defendant

**P. M. NJOROGE**

**JUDGE**