



**REPUBLIC OF KENYA**

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

**ELC NO. 136 OF 2006**

**VICTORIA MASINDE (Suing through her Attorney**

**ROSE N. MASINDE.....PLAINTIFF**

**VERSUS**

**LOIS CHESIRIKEN PSENJEN (Legal personal**

**representative of ENOCK MOKOIT PSENJEN (deceased)....1<sup>ST</sup>DEFENDANT**

**STEPHEN KIPLANGAT PSENJEN (Legal personal**

**representative of ENOCK MOKOIT PSENJEN(deceased)....2<sup>ND</sup> DEFENDANT**

**AMY CHELAGAT KIPTUI.....3<sup>RD</sup> DEFENDANT**

**RULING**

1. By a notice of motion dated 25/6/2020 and filed on 30/6/2020 brought under provisions of **Section 3A of the Civil Procedure Act**, the applicant/plaintiff seeks the following orders:

**(1) That ROSE NASWA MASINDE the legal representative of the plaintiff VICTORIA KAMULE MASINDE, be substituted with BETTY TINDI MASINDE.**

**(2) That the plaintiff be granted leave to further amend the plaint.**

**(3) That costs of this application be in the cause.**

2. The application is premised on the following grounds: that the plaintiff's former legal representative, **Rose Naswa Masinde**, died on the **18/12/2019** while the case was still pending for determination; that the plaintiff works for gain in the Republic of Iraq and is unavailable to conduct the case of herself; that the plaintiff has donated power to **Betty Tindi Masinde** to represent her in the case and that the orders shall not prejudice the defendants. The application is supported by the affidavit of the plaintiff sworn on **25/6/2020** which reiterates the above grounds.

3. The application is not opposed. I have taken notice of the copy of the certificate of death in respect of the plaintiff's erstwhile representative and the revocation of power of attorney earlier granted to her as well and the copy of the newly registered power of attorney made by the plaintiff in favour of her incoming representative. I find that the orders sought are merited and I hereby grant the application as prayed in **prayers 1 and 2** thereof. The costs of the application shall be in the cause.

4. The plaint in this matter shall be amended and such amended plaint shall be filed and served **within 7 days** of the date of this ruling.

5. The judgment in this matter shall be delivered by way of electronic mail on **30/9/2020**. The file record shall be availed in Chambers within **7 days** of this order for the purpose of writing judgment.

It is so ordered.

**Dated, signed and delivered at Kitale via electronic mail on this 4<sup>th</sup> day of September, 2020.**

**MWANGI NJORGE**

**JUDGE, ELC, KITALE.**