



REPUBLIC OF KENYA



**M'Arimi v Kiambi; Arimi (Applicant) (Civil Appeal (Application)
162 of 2019) [2025] KECA 1506 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KECA 1506 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) 162 OF 2019
JM NGUGI, JA
SEPTEMBER 19, 2025**

BETWEEN

JANET KANYUA M'ARIMI APPELLANT

AND

FRANCIS KIAMBI RESPONDENT

AND

JOEL MUGAMBI ARIMI APPLICANT

*(Being an Application for Orders to substitute the appellant with her
son JOEL MUGAMBI ARIMI in Nyeri Civil Appeal No. 162 of 2019)*

RULING

1. Before me is a Notice of Motion dated 25th July, 2023 brought under Rule 102 of the Court of Appeal Rules, 2022, in which the applicant, Joel Mugambi Arimi, seeks substitution of the deceased appellant, his late mother, with himself for purposes of prosecuting the appeal.
2. The application is premised on the grounds set out on its face and is supported by the affidavit of the applicant sworn on the same date. In summary, the applicant depones that the appellant died on 16th June, 2022, while this appeal was still pending for hearing; that he is the son of the deceased; and that he has since obtained a Limited Grant of Letters of Administration ad litem to represent the estate of the deceased for purposes of these proceedings. He annexed a copy of the death certificate and the limited grant.
3. The record shows that the application, together with the hearing notice, was served upon the respondent, but the respondent neither filed a replying affidavit nor submissions. I will, therefore, treat the application as unopposed.



4. Rule 102 of the Court of Appeal Rules, 2022 provides as follows:

“An appeal shall not abate on the death of the appellant or the respondent but the Court shall, on the application of any interested person, cause the legal representative of the deceased to be made a party in place of the deceased, and shall proceed with the appeal.”

5. From the above provision, it is clear that an appeal does not abate by reason of death of a party. Instead, the Court is enjoined to facilitate substitution upon the application of a duly appointed legal representative. In the present case, the applicant has demonstrated that the appellant is deceased, that he is her son, and that he has been issued with a limited grant ad litem to represent her estate.

6. The application has also been brought with promptitude, slightly over a year after the death of the appellant, which delay has been satisfactorily explained. No prejudice has been demonstrated as likely to be suffered by the respondent if the substitution is allowed.

7. Guided by Rule 102 and satisfied that the application meets the threshold, I find merit in the application.

8. Accordingly, I make the following orders:

- i. The application dated 25th July, 2023 is hereby allowed.
- ii. Joel Mugambi Arimi is substituted in place of the deceased appellant for purposes of prosecuting this appeal.
- iii. The costs of this application shall be in the cause.

DATED AND DELIVERED AT NYERI THIS 19TH DAY OF SEPTEMBER, 2025.

JOEL NGUGI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

