REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 2047 OF 1976

KRISHEN S/O DURAGADASS.....PLAINTIFF

VERSUS

MRS PRISKA WAMBUI W/O

DAVID KARANGI.....DEFENDANT

R U L I N G

When this matter came before me on 25th November, 1998, the learned counsel for the plaintiff raised three basic preliminary objections and submitted that the applications by Mr. David Karangi should be dismissed and he be punished for contempt of court.

The learned counsel for the plaintiff has pointed out that the plaintiff is now deceased and without any order for substitution no proceedings can be continued. He has also submitted that Mr. Karangi is not a party to these proceedings but his wife and therefore he has no locus standi to file any applications or appear in court as he is not a an advocate of this court. thirdly there is a court order directing that the Registry should not accept any application brought by Mr. Karangi without the leave of the court.

Mr Karangi has told the court that he is properly before the court the business was conferred upon his family and the plaintiffs close relatives are running the said business.

I have taken sometime to peruse this voluminous record before me. Many judges have handled this file. On many occasions they have reached concurrent findings. What has been raised by Mr. Raiji in his objections is nothing new. This has been communicated to Mr Karangi not only by way of affidavits but by the several rulings on the record.

The fact that the plaintiff has passed away is known to the man now posing as the defendant. A death certificate has been produced and is part of this record. No proceedings, I agree, can be conducted without substitution under the law.

In his ruling delivered on 9th February, 1994, Pall J. (as he then was) found that Mr. Karangi has no locus standi in this suit. The learned judge proceeded to say:

> ***" He has no right to keep on bringing applications in his own name as a defendant. I direct the registry not to accept any application in future filed by Mr Karangi in his own name as if he were a party to these proceedings. So far as he is concerned if he ever brings any application in future in his own name in defiance of this order he would be deemed to be in contempt of the court and shall be dealt with as such. As there has been a spate of frivolous and vexatious applications by the defendant and Mr Karangi, I direct the registry not to accept any application presented by or on behalf of the defendant without prior leave of the court"***

Then in 1997, it was the turn of Kuloba J. to deal with this person. The learned judge observed that the question of Mr Karangi's lack of locus standi has already been determined by Pall J (as he then was). The appeal court agreed. He still forces himself on the court. The learned judge continued:-

> ***"Twenty years after litigation began the applicant still intermeddles into what does not concern him, and keeps on taking up the time of every judge in turns, with the same story heard and determined.....previous judges have already***

ordered that the applicant should not be allowed to come to the court without express leave of the court to do so. One party has admittedly passed away. Litigation still goes on without the deceased party being represented in the matter by legal representative. This is obviously wrong.....I do not wish to contradict what other judges have decided in respect of applications by this person."

With respect I agree with the sentiments, findings and holdings by my brother judges and have nothing useful to add. Litigation must surely come to an end and this extremely litigious person should be told enough is enough. I uphold the preliminary objection and strike out the applications brought by Mr Karangi. He shall pay the costs to the plaintiff's advocate that have been occasioned by this application.

Orders accordingly.

Dated at Nairobi this 4th day of December, 1998.

A. MBOGHOLI MSAGHA

JUDGE