



**Kanoga & 2 others v Guardian Bank Limited & another (Civil Suit
E019 of 2021) [2025] KEHC 13760 (KLR) (30 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13760 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL SUIT E019 OF 2021
DO CHEPKWONY, J
SEPTEMBER 30, 2025**

BETWEEN

**SIMON WARUI KANOGA 1ST PLAINTIFF
ROSE WANGUI WARUI 2ND PLAINTIFF
SIMKAN AGENCIES LIMITED 3RD PLAINTIFF**

AND

**GUARDIAN BANK LIMITED 1ST DEFENDANT
JEREMIAH MUCHENDU TA ICON AUCTIONEERS 2ND DEFENDANT**

RULING

1. For determination before the court is the Notice of Motion application dated 16th May, 2025, which is supported by the Affidavit of Rose Wangui Warui and Irene Waithira Wariahe, sworn on even date. The Applicants are seeking for orders that:-
 - a. That the 1st Plaintiff known as Simon Warui Kanoga (deceased) be substituted with Rose Wangui Warui and Irene Waithira Wariahe.
 - b. That the amended Plaint be further amended as per the draft further amended plaint annexed hereto and marked 'P3'.
 - c. That costs be in the cause.
2. According to the Applicants, Simon Warui Kanoga passed away on 22nd August, 2024 as indicated in the Death Certificate attached as 'P2' while the case herein which he filed is still pending. That as Personal Representatives of the Estate of the Deceased, they applied and were granted Letters of Administration Ad Litem dated 13th November, 2024 attached and marked as 'P1'. The Applicants



now wish to substitute the deceased who was the 1st Plaintiff in the case so that they proceed with it until conclusion. They also seek to further amend the Plaint to reflect the said changes.

3. The Application was served upon the Respondents and there is an Affidavit of Service filed to confirm service. There has been no response filed by the Respondent and neither has there been attendance by them or their counsel or representative to explain their non attendance or failure to respond to the application.
4. Having read the application, the Supporting Affidavit and the annexures, particularly the annexed Death Certificate ('P2') and the Letters of Administration Ad Litem ('P1'), and there being no response from the Respondents, the Court finds the application unopposed, and merited. The Notice of Motion application dated 16th May, 2025 is thus allowed in the following terms:-
 - a. The 1st Plaintiff known as Simon Warui Kanoga (deceased) be and is hereby substituted with the Personal Representative of his Estate, being Rose Wangui Warui and Irene Waithira Wariahe.
 - b. That the Amended Plaint be further Amended as per the Draft Further Amended Plaint annexed hereto and the same be deemed as duly filed.
 - c. The Defendants are hereby granted leave to file and serve an Amended Defence within fourteen (14) days from the date hereof, if they so desire.
 - d. The costs be in the cause.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 30TH DAY OF SEPTEMBER, 2025.

D. O. CHEPKWONY

JUDGE

In the presence of;

Mr. Muthomi counsel for Plaintiffs

Mr. Mutua counsel for the Defendants

Court Assistant - Martin

