



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT
NAIROBI ELC CASE NO E154 OF
2023

STANLEY KIPROTICH BOINET

.....
PLAINTIFF/RESPONDENT

=VERSUS=

THE NATIONAL SOCIAL SECURITY FUND.....1ST

DEFENDANT ASSUMPTA JEMUTAI

KIPRUTO.....2ND DEFENDANT

RULING

1. Before me for determination is the Notice of Motion dated 16th June 2025, brought under Sections 1A, 1B, 3 and 3A of the Civil Procedure Act, and Order 24 Rule 3(2) of the Civil Procedure Rules, in which the Applicant seeks the following orders:-

a) THAT this court be pleased to make an order dismissing the suit herein and/or declare the suit abated.

b) THAT the costs of this application be provided for.

2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Vincent

Kiptoon Advocate, sworn on even date.

THE APPLICANT'S CASE

3. The deponent averred that on 9th April 2024, Counsel for the Plaintiff informed the court that the Plaintiff was deceased and was granted 60

days to effect substitution. He maintained that the substitution has not been made despite the extension of time. He maintained that the suit herein has abated by operation of the law.

4. Though duly served, the Respondent did not file any response to the application.
5. Parties were directed to canvass the application by way of written submissions.
6. At the time of writing this ruling, none of the parties had filed their submissions as directed.

ANALYSIS AND DETERMINATION

7. Having considered the application and the affidavit in support thereof, the only issue for determination is whether this suit has abated.
8. **Order 24 Rule 3 of the Civil Procedure Rules** states that:-

(1) Where one of two or more Plaintiffs dies and the cause of action does not survive or continue to the surviving Plaintiff or Plaintiffs alone, or sole Plaintiff or sole surviving Plaintiff or sole surviving Plaintiff dies and the cause of action survives or continues, the court on an application made in that behalf shall cause the legal representative of the deceased Plaintiff to be made a party and shall proceed with the suit.

(2) Where, within one year no application is made

under subrule (1), the suit shall abate so far as the deceased Plaintiff is concerned and on the application of the Defendant, the court may award to him the

costs which he may have incurred in defending the suit to be recovered from the estate of the deceased Plaintiff.

9. It is not in dispute that the Plaintiff is deceased. The suit herein abated one year after the Plaintiff's death because no application for substitution was made.
10. In the end, I find that the application is merited and the same is hereby allowed in the following terms:-
 - a) This suit is hereby marked as abated with no orders as to costs.

RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 3RD DAY OF OCTOBER, 2025.

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**T.
MURIG
I
JUDGE**

**IN THE PRESENCE
OF:-**

Otieno holding brief for Ruto for the
Plaintiff Ahmed - Court assistant