



REPUBLIC OF KENYA



**Mitei v Too (Environment and Land Case E011 of 2022)
[2025] KEELC 6762 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6762 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND CASE E011 OF 2022
GMA ONGONDO, J
OCTOBER 6, 2025**

BETWEEN

RAEL MITEI PLAINTIFF

AND

RASHID KIPKURGAT TOO DEFENDANT

RULING

1. An application by way of a notice of motion dated 29th September 2029 pursuant to, inter alia, sections 3 and 3A of the [Civil Procedure Act](#) Chapter 21 Laws of Kenya generated by Chelimo and Company Advocates, is seeking the orders infra;
 - a. That this Honourable court do cause the legal representative of the deceased Defendant Rashid Kipkurgat Too(Deceased) namely Kurgat Aziz Kirwa, Faraj Kiplimo Kurgat, Kipngetchi Ali Kurgat and Ibrahim Kiprof Kurgat to be substituted and made a party in this suit in place of the Defendant and proceed with this suit on behalf of Rashid Kipkurgat Too(Deceased).
 - b. That such other and or further directions be given by this Honourable court to meet the ends of justice.
 - c. That the costs of this application be in the cause.
2. Ms Chelimo learned counsel for the defendant informed the court that the defendant passed on last year 2024. That there are requisite documents in place to substitute him as prayed in the application.
3. The plaintiff/respondent through Rotich, Langat and Partners Advocates has no opposition to the application.
4. Notably, a copy of grant in respect of the estate of the Deceased issued in Eldoret Principal Magistrate's court KUSUCC No. E004 of 2024 marked as (KAK 2) and the certificate of death (KAK 1) both are annexed to the affidavit in support of the application.



5. The grant is what clothes a person with locus standi in suits estate of the deceased; see also Omari Kaburu v Industrial and Commercial Development Corporation (2007) KEHC 2412 (KLR).
6. It is common ground that the application be allowed herein.
7. Wherefore, the application dated 29th September 2025 is meritorious and hereby allowed in terms of the 1st and 3rd prayers therein as stated in paragraph 1 (a) and (c) hereinabove.
8. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 6TH DAY OF OCTOBER 2025.

HON G M A ONGONDO

JUDGE

In the presence of;

Mr Rotich learned counsel for the Plaintiff/Respondent

Ms Chelimo learned counsel for the Defendant/Respondent

Walter, Court Assistant

