



REPUBLIC OF KENYA



**KENYA LAW**  
THE NATIONAL COUNCIL FOR LAW REPORTING  
Where Legal Information is Public Knowledge

**Ombongi (Suing as legal representative of the Late Jeremiah Ombongi Manyura - Deceased)  
v Michoki (Civil Suit 207 of 1988) [2025] KEELC 7090 (KLR) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7090 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT KISII**  
**CIVIL SUIT 207 OF 1988**  
**M SILA, J**  
**OCTOBER 16, 2025**

**BETWEEN**

**ELIZAPHAN ONYANCHA OMBONGI (SUING AS LEGAL REPRESENTATIVE  
OF THE LATE JEREMIAH OMBONGI MANYURA - DECEASED) ... PLAINTIFF**

**AND**

**HEZEKIAH MICHOKI ..... DEFENDANT**

*(Application for substitution; applicants holding a grant of letters of administration for the person representing the estate of the deceased plaintiff; what they need is a grant of letters of administration for the estate of the original plaintiff not a grant for the estate of the administrator of his estate; application dismissed)*

**RULING**

1. The application before me is that dated 12 June 2025. The substantive prayer seeks an order for leave to join Justin Omwoyo Nyaberi and Jacob Ogechi Ombongi, the administrators of the estate of Elizaphan Onyancha Ombongi (Elizaphan), as the plaintiffs herein. The application is based on grounds that Elizaphan died on 19 January 2023 and Jacob Ogechi Ombongi and Justin Omwoyo Nyaberi have been appointed as the administrators of his estate. It is thus sought that the two be joined so as to represent his estate in this matter.
2. The supporting affidavit is sworn by Justin Omwoyo Nyaberi. He has inter alia deposed that Elizaphan Onyancha Ombongi died on 19 January 2023, and that he together with Jacob Ogechi Ombongi, were issued with a limited grant of administration ad litem on 21 May 2025 which he has annexed.
3. Nothing was filed to oppose the motion and I have given it due consideration.
4. I observe that this suit was filed by one Jeremiah Ombongi Manyura (Jeremiah) (the original plaintiff) vide a plaint filed on 13 October 1998. I have seen that the original plaintiff died on 17 September 2000. Upon his death, Elizaphan Onyancha Ombongi filed an application dated 19 April 2001 for



substitution. He held a limited grant of letters of administration issued in the suit Kisii High Court Succession Case No. 310 of 2000. That application for substitution was allowed by Wambilyangah J on 20 May 2002. It should be appreciated that Elizaphan was not continuing the case on his own behalf but as administrator of the estate of the original plaintiff. I see that judgment was entered for the plaintiff on 18 October 2007 by Bauni J. The defendant intended to appeal to the Court of Appeal but I see that in a ruling delivered on 5 December 2008 the Court of Appeal was not persuaded to allow his application to file an appeal out of time and that must have been the end of the matter. Maybe what is now left is execution of the judgment.

5. It is now said that Elizaphan is deceased and the applicants want to substitute him as the plaintiff. They have come armed with a grant ad litem issued on 21 May 2025 which grant is in respect of the Estate of Elizaphan. I am afraid that being an administrator of the estate of Elizaphan does not help the applicants. The case was never one for Elizaphan but was for Jeremiah Ombongi Manyura. Elizaphan was merely administrator of the estate of Jeremiah. If Elizaphan is deceased, it would mean that a new administrator for the estate of Jeremiah Ombongi Manyura needs to be appointed for the purposes of continuing this case, not an administrator of the estate of Elizaphan. Having no grant of letter of administration in respect of the original plaintiff I am afraid that the applicants have no capacity to represent the estate of Jeremiah. I reiterate that it is the estate of Jeremiah which is in this suit and not the estate of Elizaphan. What one needs, in order to substitute, is a grant in respect of the estate of the original plaintiff not a grant in respect of the late Elizaphan who was merely administrator of the estate of the original plaintiff. The benefit of the suit is not for the estate of Elizaphan but for the estate of Jeremiah.
6. For the above reasons, this application has no merit and it is hereby dismissed. Since it was not opposed, I make no orders as to costs.
7. Orders accordingly.

**DATED AND DELIVERED THIS 16 DAY OF OCTOBER 2025**

**JUSTICE MUNYAO SILA**

**JUDGE, ENVIRONMENT AND LAND COURT**

**AT KISII**

