



**Nyamache v Ombui & another (Civil Appeal (Application)
E267 of 2022) [2025] KECA 1684 (KLR) (21 October 2025) (Ruling)**

Neutral citation: [2025] KECA 1684 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL (APPLICATION) E267 OF 2022
LK KIMARU, JA
OCTOBER 21, 2025**

BETWEEN

NYAKANGI NYAMACHE APPLICANT

AND

WILFRED MORIASI OMBUI 1ST RESPONDENT

JOSEPH BITOYO NYAKANGI 2ND RESPONDENT

*(Being an application for substitution of the deceased appellant
from the Judgment of the Environment and Land Court of Kenya at
Nyamira (Mugo, J) Dated 20th July, 2022 in ELC No. 104 of 2021)*

RULING

1. Rule 102 of the Court of Appeal Rules provides thus:
 - “(1) An appeal shall not abate on the death of the appellant or respondent but the court shall, on application of any interested person, cause the legal representative of the deceased person to be made a party in place of the deceased.
 - (2) If no application is made under sub-rule (1) within twelve months from the date of death of the appellant or respondent, the appeal shall abate.”
2. In the present application, Joseph Bitoyo Nyakangi, the applicant states that Nyakangi Nyamecha, (deceased) the appellant herein died on 26th January, 2024. The applicant obtained a grant of letters of administration ad litem on 24th August, 2024 which granted him permission to take over the prosecution of the appeal on behalf of the estate of the deceased applicant. He filed the present application on 7th November, 2024, seeking to be allowed to substitute the deceased as the appellant



in this appeal. This was within the stipulated period of twelve (12) months under Rule 102(2) of the Court of Appeal Rules.

3. The respondent did not file any response to the application. The application is therefore unopposed.
4. The applicant is allowed to substitute the deceased as the appellant in this appeal. There shall be no orders as to costs.

DATED AND DELIVERED AT KISUMU THIS 21ST DAY OF OCTOBER, 2025.

L. KIMARU

.....

JUDGE OF APPEAL

I certify that this is a true copy of original.

Signed

DEPUTY REGISTRAR.

