



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

ELC NO. 54 OF 1999

AZIZ NDAMWE.....PLAINTIFF

VERSUS

MIRIAM ANJAO NDAMWE.....1ST DEFENDANT

SALIM NDAMWE.....2ND DEFENDANT

AND

EDITH NAFULA MUKONAMBI.....1ST RESPONDENT

HABIB SALIM NDAMWE.....2ND RESPONDENT

RULING

1. The application dated **6th February, 2019** and filed in court on **15/2/2019** seeks orders that the deceased **Salim Ndamwe** be substituted by **Edith Nafula Mukonambi** jointly with **Habib Salim Ndamwe** respectively; that the subject suit be revived and that costs be provided for.

2. The application is brought under provisions of **Order 1 Rule 10 and 14, Order 24 Rule 4, 7 and Order 51 Rule 1 of the Civil Procedure Rules Cap 21 Laws of Kenya.**

3. The application is supported by the sworn affidavit of the plaintiff dated **6/6/2019** and a supplementary affidavit also sworn by the plaintiff dated **15/3/2019**. The grounds upon which the application is sought are that the all the defendants are deceased therefore the suit against the defendants need to be revived and there is need for substitution; that the applicant has applied for limited grant of letters of administration in favour of the said **Edith Nafula Mukonambi** and **Habib Salim Ndamwe**; that the deceased died while defending the suit herein that the special grant gives the respondents powers to substitute the deceased defendants and that no prejudice shall be suffered by any party.

4. The plaintiff filed submissions on **4/4/2019**. I have perused the application and the filed submissions

5. I am satisfied that the instant application, which is unopposed, has merit.

6. I therefore grant the application and issue the following orders:

(a) That this suit is hereby revived;

(b) That the deceased 2nd defendant, Salim Ndamwe, shall be substituted by Edith Nafula Mukonambi jointly with Habib Salim Ndamwe;

(c) That the costs of the application shall be in the cause.

Dated, signed and delivered at Kitale on this 30th day of April, 2019.

MWANGI NJOROGE

JUDGE

30/4/2019

Coram:

Before - Hon. Mwangi Njoroge, Judge

Court Assistant - Picoty

Mr. Bisonga holding brief for Barongo for respondent

N/A for plaintiff

COURT

Ruling read in open court.

MWANGI NJOROGE

JUDGE

30/4/2019