



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYANDARUA
HIGH COURT COMMERCIAL CASE NO.1 OF 2023

BETWEEN

GRACE WANJIKU KARANI..... PLAINTIFF

VERSUS

KARSONS MOTORS ENGINEERING LTD..... 1ST DEFENDANT

SIMON NJOGU KARIMI..... 2ND DEFENDANT

FLORENCE WANJIRU NGOTHO..... 3RD DEFENDANT

ANASTACIA WAIGUMO KARANI.....4TH DEFENDANT

CLEOPATRA WACHUKA KARANI..... 5TH DEFENDANT

GLADYS NYAMBURA KARANI.....6TH DEFENDANT

JANNETTE MUGURE KARANI.....7TH DEFENDANT

LUCY WANGUI KARANI.....8TH DEFENDANT

CHARLES NDIRANGU KARANI..... 9TH DEFENDANT

RULING

1. The plaintiff/applicant moved the court through a Chamber Summons dated 16th October, 2025. It was brought under sections 1A,1B, 3A, and 63 (e) of the Civil Procedure Act, Order 1 Rule 10 and Rule 14 of the Civil Procedure Rules, and Article 159 (2) (d) of the Constitution of Kenya. The applicant is seeking the following orders:

- a) That Davis Gitonga Karani be added to this suit as the 2nd plaintiff.
- b) That consequent to prayer 2 above, the plaintiff do amend the plaint and file the necessary witness statements/pleadings accordingly.
- c) That the costs of this application be in the cause.

2. The application was premised on the following grounds:

- a) That this matter was last in court on 19th June 2025, when the trial court granted the plaintiff's counsel 30 days to apply for the substitution/addition of a plaintiff.
 - b) That since the suit deals with shares of a deceased person in a company, it was imperative that a letter of administration *ad litem* be first granted to the proposed co-plaintiff before the joinder application could be made.
 - c) The said letters of administration *ad litem* have now been issued in the name of Davis Gitonga Karani, who is the proposed co-plaintiff, by the High Court sitting in Nyahururu vide a ruling dated 13th October 2025.
 - d) The proposed co-plaintiff, having now been granted powers to sue and prosecute the case on behalf of the estate of the deceased, it is now imperative that this application be allowed so that the matter can now proceed for a hearing on the merits to its logical conclusion.
 - e) That this application is made in the interest of justice and fairness and to enable the effectual and complete determination of this matter.
3. The respondent opposed the application on the following grounds:
- a) The instant applicant herein is incompetent, bad in law, and inept of merit, and it is meant to waste the court's precious judicial time.
 - b) The instant applicant has been filed to mislead the court under the disguise of substitution for a suit that is incompetent and ought to be struck out.
 - c) That from the onset, the suit herein has been incompetent, and the plaintiff has not been ready to proceed since she is well aware that her claim is devoid of merit.
 - d) This matter had been set for hearing on 19th June 2025, but the matter was adjourned at the instance of the plaintiff because she was indisposed.
 - e) The applicant's application herein is misplaced as the matter herein does not involve the shares of the estate of the deceased. The deceased had transferred all his assets before his death, and the plaintiff has filed the matter herein, claiming a beneficial interest as she was the wife of the deceased. Therefore, the application herein is incompetent.
 - f) The applicant has not obtained a proper grant, as the same has not been annexed to the application herein.

- g) That in any event, if the matter herein were to involve the purported shares of the deceased, it ought to be instituted by the administrator and not the plaintiff herein in her personal capacity, and then purport to add and then seek to include her son as a co-plaintiff.
4. On the 19th day of June 2025, this matter was scheduled for a hearing. The plaintiff's advocate informed the court as follows:
- The plaintiff is indisposed. She is unable to attend court for the hearing. I intend to apply for substitution.***
5. The application was not opposed, and 30 days' leave was granted. When filed, it aimed to add a second defendant. However, the application mistakenly stated that the applicant was granted leave to substitute or add a plaintiff, which was not the case, as no such leave was sought.
6. Although it has been contended that the proposed 2nd plaintiff has been granted letters of administration *ad litem*, it was not stated which estate it relates to, and the same was not exhibited. This is despite the supporting affidavit indicating that it was attached thereto.
7. I have noted that the parties herein, except the 1st defendant, are family members laying a stake to the estate of Karani Njirigu Korabu, deceased. At the appropriate time, I will seek the parties to address the court whether this is a commercial dispute or an inheritance one.
8. This court has not been persuaded that the application has merit. The same is dismissed with costs.

Delivered and signed at Nyandarua, this 3rd day of February 2026

KIARIE WAWERU KIARIE

JUDGE.