



THE JUDICIARY



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MURANG'A
ELCLOS NO. E019 OF 2025

JANE WANJIKU KINUTHIA AND PARTRICK NDUNGU KINUTHIA
(Suing as Representatives of the Estate of
SAMSON KINUTHIA NDUNGU(DECEASED)PLAINTIFF/APPLICANT
VERSUS
JEMIMAH WARINGA GICHUREDEFENDANT/RESPONDENT

RULING

(1) This ruling is on the exparte notice of motion dated 5-2-2026. The motion which is brought under Order 5 rule 17 of the Civil Procedure Rules seeks two orders.

(a) Leave to serve the Respondent by way of substituted service through registered post or local daily newspaper.

(b) That costs of this application be provided for.

(2) The motion is based on two grounds and is supported by an affidavit sworn by Jane Wanjiku Kinuthia dated 5-2-2026. The gist of the grounds and the affidavit is as follows.

Firstly, the Plaintiff has been unable to trace the Defendant. Secondly all efforts to trace the Defendant have failed as it is impossible to trace the Defendant. Thirdly, the only option left is to serve the Defendant as proposed in the ex-parte motion dated 5-2-2026.

(3) I have carefully considered the motion in its entirety and I find that it has no merit for the following reasons.

Firstly, on 30-6-2025, this Court gave clear directions on how the Defendant was to be served. These very clear directions were given in the presence of Mr. Gachari Advocate. The Plaintiff was given more than 2 ½ months to comply with those directions but failed to do so.

(4) Secondly, the so called tireless efforts made by the 1st Plaintiff in trying to trace the Defendant have not been enumerated in the affidavit dated 5-2-2026.

The Plaintiff should comply with the directions dated 30-6-2025. If she does so, there will be a way out on service. The motion dated 5-2-2026 is dismissed.

Costs in the cause.

It is so ordered.

Dated, Signed and Delivered virtually at Murang'a this 25th day of February, 2026.

**M.N. GICHERU
JUDGE.**

Delivered online in the presence of: -
Court Assistant – Mwangi Njonjo
Plaintiffs' Counsel – Miss Mueni holding brief