



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**

**CIVIL APPEAL NUMBER E158 OF 2023**

**MERCY WANGARI KABUGUA and BERNARD  
MUSUMBA OKUTO (Suing as Representative of the  
Estate of JUSTUS AMUKHALE MUSUMBA (Deceased)**

**VERSUS**

**BEATRICE WARUARE KIMURI -----  
RESPONDENT**

1. By Notice of Motion dated 19/1/2026 the Appellants seek these orders;-

1. **Remitting of Nakuru Chief Magistrate's Civil Case File Number 1153 of 2019 to the Chief Magistrate's Court at Nakuru for assessment of damages only, liability having been conclusively determined by this court at 100% against the Respondent.**

**2. In the alternative, that this court be pleased to assess and award general damages to the Appellants as proposed in their submissions before the trial court.**

**3. That the costs of the Application be provided for.**

2. The Application is supported by the Appellants' joint affidavit which I have perused.
3. The Application is unopposed, there being no reply from the Respondent despite the evidence of service thereof upon her.
4. The Application is allowed as per prayer 1. The file in question is remitted to the trial court for assessment of damages. It is not proper for this court to undertake the task so as not to deny an aggrieved party the right of appeal to the High Court.
5. No order is made as to the costs of the Application.

**J. M. NANG'EA - JUDGE**

**Ruling delivered virtually this 13<sup>th</sup> day of March, 2026.**

**In the presence of:**

**Appellants' Advocate, Mr. Ngure**

**Respondent's Advocate, Ms Nasimiyu for Ms Cherotich**

**Court Assistant (Jeniffer)**

**J.M. NANG'EA - JUDGE.**

ORIGINAL