

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT
KITALE

ELC NO. 98 OF 2016

EMMANUEL LOKEDINGOLE
(Suing as the personal representative of the estate
of LOKENDINGOLE LIPOPUS

(DECEASED)-----

PLAINTIFF/RESPONDENT

VERSUS

LOKOYE ARIONGONYANG-----1ST
DEFENDANT

EMMANUEL LOLINGANYANG-----2ND
DEFENDANT

THOMAS JELIM-----3RD
DEFENDANT

AND

CHEPONYORIO LWOYEKE(As the personal
representative of the estate of the LOYEKE

ARIONGONYANG alias SAMWEL

NGOLEKERUS-----

----APPLICANT

RULING

1. By an application dated **30/1/2026**, the court is asked to grant leave for the 1st defendant, who is deceased, to be substituted with his wife as a legal

administrator following issuance of a limited grant *ad litem* issued to Cheponyorio Lwoyeke on **19/6/2025** in **Kitale CM Cause No. E115 of 2025**. The reasons are contained on the face of the application and in a supporting affidavit of Cheponyorio Lwoyeke, sworn on **20/1/2026**.

2. Briefly, the applicant deposes that she is the wife of the deceased, 1st defendant, who passed on on **15/4/2025** before the judgment was delivered on **11/6/2025** in favour of the plaintiff. The deponent states that she has since obtained a limited grant *ad litem* attached as annexure marked **CL (1)**. She urges the court to allow the application so that she can pursue an appeal against the judgment on behalf of the estate of the 1st defendant.
3. Though the plaintiff was served with the application and attended court on **10/7/2025**, there is no replying affidavit filed. The 1st defendant relies on written submissions dated **2/2/2026**. Substitution of judgment debtor is provided under **Section 37** of the Civil Procedure Act and **Order 24** of the Civil Procedure Rules, before the decree is satisfied with a legal representative of such deceased.
4. **Order 24 Rule 4** of the Civil Procedure Rules relates to defence in a suit. Continuance of a suit is allowed through the substitution of a deceased with

a holder of letters of administration. The applicant says she has been nominated under **Section 54** of the Law of Succession Act, as a legal representative of the estate of the 1st defendant.

5. The court has carefully looked at the application. The defendants in this matter testified and closed their defence on **20/2/2025**. Judgment was then reserved for **11/6/2025**. It appears that the 1st defendant passed on before the judgment was delivered on **11/6/2025**, but the court was not notified of the same. This means that the 1st defendant could not file any appeal without substitution. Therefore, the court finds merit in the application. It is allowed with no order as to costs.
6. Orders accordingly.

Ruling dated, signed, and delivered via **Microsoft Teams/Open Court** at **Kitale** on this **15th** day of **April 2026**.

In the presence of:

Court Assistant - Dennis

Mr. Kiarie for plaintiff/respondent present

Kaosa for applicant/defendant absent



**HON. C.K. NZILI
JUDGE, ELC KITALE.**

ORIGINAL COPY