



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC JUDICIAL REVIEW APPLICATION CASE NO. 02 OF 2018

REPUBLIC.....APPLICANT

VERSUS

MINISTER OF LANDS, HOUSING,

PHYSICAL PLANNING & SETTLEMENT.....1ST RESPONDENT

DISTRICT LAND ADJUDICATION &

SETTLEMENT OFFICER MERU

SOUTH/MAARA SUB COUNTY.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL....3RD RESPONDENT

MUTUA MUGAMBI AREWA.....INTERESTED PARTY

WERU TEA FACTORY

COMPANY LIMITED.....2ND INTERESTED PARTY

GILBERT MUCHIRI NGAINE.....EX-PARTE APPLICANT

RULING

1. This application is dated **23rd May, 2018**. It seeks the following orders:

1. The honourable court be pleased to substitute Mutua Mugambi Arewa (deceased) with his son Wilfred Kithinji Magambo the 1st Interested Party herein.

2. Costs be in the cause.

2. The application has the following ground:

(a) The 1st Interested Party is deceased and needs to be substituted.

3. The application is supported by the affidavit of Wilfred Kithinji Magambo sworn on **23rd May, 2018** which states as follows:

“I, WILFRED KITHINJI MAGAMBO, of Post Office **Box 82, MAGUTUNI** in the Republic of Kenya hereby make oath and state as follows:

1. That I am the applicant herein hence competent to swear this oath.

2. That the 1st Interested Party herein is my father (deceased).
3. That he died on 5.5.2018 (Annexed and marked "W K M 1" is a copy of death certificate of Mutua Mugambi Arewa (Deceased).
4. That the cause of action survives the deceased hence the need to substitute the deceased as a party.
5. That I have obtained the grant Ad litem to be joined as a party – 1st Interested Party in the instant suit (Annexed and marked "W K M 1" is a copy of the grant) permitting the substitution of the 1st Interested Party.
6. That what is deponed to herein is true to the best of my knowledge belief, and information.

4. When the application was heard Interpartes on **23rd May, 2018**, Mr. Mutani, the applicant's advocate moved the court to allow the application. This prayer was not opposed by the other parties who were present in court.

5. In the circumstances, this application is allowed with costs to be in the cause.

6. The 1st Interested Party is granted **7 days** to file and exchange necessary responses.

7. Parties will come to court for directions on **14.6.2018**.

8. It is so ordered.

Delivered in open court at Chuka this **23rd day of May, 2018** in the presence of:

CA: Ndegwa

I.C. Mugo for the Exparte Applicant

Mutani for the 1st Interested Party

Muriithi for the 2nd Interested party

P. M. NJOROGE

JUDGE