



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA**

**ELC CASE NO. 101 OF 2013**

**JAMES MUCHIRI MUKOMA ..... PLAINTIFF**

**VERSUS**

**JAMES NDERITU ..... DEFENDANT**

**RULING**

[1] The applicant herein prays that the Court do extend the time in this matter and further that the Court do give further directions in this matter to substitute the defendant. There is an alternative prayer that the defendant's wife be compelled to substitute the deceased in this matter.

[2] This application is opposed and grounds of opposition have been filed under ***Order 51 Rule 14 (1) of the Civil Procedure Rules 2010***. One of the grounds advanced by the defendant's counsel is that the suit abated on 16<sup>th</sup> of November 2012. That is one year after the demise of the defendant and that the suit has not been revived.

There has been no application to revive the suit under ***Order 24 Rule 3 (2)***.

[3] This is a fact not denied or controverted by the applicant. When a suit abates, it ceases to exist and there is therefore no case for which time can be extended or any directions given. Equally there is no suit for which any order can be given to compel anyone to do an act.

[4] There being no suit, this application is dismissed for being without merit with costs to the defendant.

**S.N. MUKUNYA**

**JUDGE**

**20<sup>TH</sup> JULY, 2018**