



**REPUBLIC OF KENYA**

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

**CHUKA ELC CASE NO 147 OF 2017**

**FORMERLY MERU ELC CASE NO. 134 OF 2016**

**GRACE KAGWIRIA MBIJIWE.....PLAINTIFF**

**VERSUS**

**M'CHABARI KAIRARIA M'KIRUMATI.....DEFENDANT**

**RULING**

1. In this matter, Mr. I.C. Mugo, advocate, held brief for Miss Kaaria for the defendant on **31<sup>st</sup> July, 2018**. The parties were directed to come to court on **8<sup>th</sup> October, 2018** for directions concerning the applicant's application dated **24<sup>th</sup> day of July, 2018**. The application seeks the following orders:

1. That the honourable court be pleased to order that the defendant M'Chabari Kairaria M'Kirumati (now deceased) be substituted with Magderine Kathanga Muriungi the applicant herein.
2. That the honourable court be pleased to order that the sum of Kshs.355,540/= (Three Hundred and Fifty Five Thousand, Five Hundred and Forty Shillings) deposited in court be paid to Magderine Kathanga Muriungi, the defendant herein.
3. That costs of this application be provided for.

2. The application is supported by the affidavit of MAGDERINE KATHANGA MURIUNGI and has the following grounds:

1. That the applicant is the wife of the defendant M'Chabari Kairaria M'Kirumati (deceased).
2. That the applicant has been granted limited letters of administration in respect to the estate of the deceased.
3. That before the demise of the applicant's husband, the suit had already been finalized and a decree issued.

3. The application is supported by the affidavit of the applicant sworn on **24<sup>th</sup> July, 2018** which states:

1. That I am the applicant herein and therefore well conversant with the matters deponed hereto.
2. That the defendant was my husband who has since passed away. (Annexed and marked MKM1 is a copy of the certificate of death).

3. That I have filed a succession cause in respect to the plaintiff's estate, same being Chuka H.C. Misc. Succ Cause No. 5 of 2018 and I was issued with a limited grant of letters of administration ad litem on **16<sup>th</sup> day of May, 2018**. (Annexed and marked MKM 2 is a copy of the letters of administration ad litem).

4. That before the demise of my husband , the suit was already finalized and a decree issued to that respect. (Anexed and marked MKM 3 is a copy of the decree).

5. That a sum of Kshs.355,540/= (Three Hundred and Fifty Five Thousand, Five Hundred and Forty Shillings) was deposited in court vide Order No. 507 of the said decree which was to be paid to my deceased husband.

6. That I am desirous of being substituted in place of the deceased defendant to proceed with the suit.

7. That all what is deponed to hereunder is true to the best of my knowledge, information and belief.

4. On **8<sup>th</sup> October, 2018**, this court's Deputy Registrar received a letter from the firm of MBIJIWE MUGO & CO, Advocates which states as follows:

**TO THE DEPUTY REGISTRAR,**

**HIGH COURT OF KENYA,**

**CHUKA**

Dear Sir,

**RE: CHUKA ELC NO. 147 OF 2017 (FORMERLY MERU ELC NO. 134 OF 2016)**

**GRACE KAGWIRIA MBIJIWE -VRS- M'CHABARI KAIRARIA M'KIRUMATI & MAGDERINE KATHANGA MURIUNGI**

I refer to the above matter which came up for the hearing of the chamber summons application dated 24<sup>th</sup> July, 2018 before the honourable Justice Njoroge on the 31<sup>st</sup> July, 2018 when the same was stood over to the 8<sup>th</sup> of October, 2018 for mention/directions.

I wish to confirm that pursuant to the decree of this honourable court issued to me on the 22<sup>nd</sup> of March, 2017, the Chuka Land Registry issued me with original Title documents for the suit property herein namely Title Numbers: S.Tharaka/Tunyai 'A'/3765, 3766 and 3767, copies of which are attached hereto for the record of the court.

I hereby confirm that I have no further claims against the defendants and/or applicant for the sale/purchase by me of the said property and I have no objection to the funds held by this court being released to the applicant herein.

Yours faithfully,

Grace Kagwiria Mbiyiwe

(Plaintiff)

5. On **8<sup>th</sup> October, 2018**, the parties told the court that they had agreed to have the application allowed. I note that the defendant's wife, Magderine Kathanga Muriungi, obtained Limited Grant of Letters of Administration Ad Litem at Chuka High Court on **16<sup>th</sup> May, 2018**.
6. In the circumstances, the application is allowed in terms of prayers 1 and 2.
7. No costs are awarded with regard to this application to any of the parties.
8. It is so ordered

Delivered in open Court at Chuka this **08<sup>th</sup> day of October, 2018** in the presence of:

CA: Ndegwa

M/S Kithaka h/b Mbijiwe Mugo for the plaintiff/respondent

Kiogora Arithi h/b Miss Kaaria for the defendant/applicant

**P. M. NJOROGE**

**JUDGE**