

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

MILIMANI LAW COURTS

E.L. C. NO. 396 OF 2014

BABUBHAI M. SHAH T/A MAGANLAL MEGHJI SHAH & PARTNERS.....PLAINTIFF

VERSUS

M & M SCIENCE LIMITED.....DEFENDANT

RULING

The application dated 14th December 2017 seeks to have Maheshkumar Maganlal Meghji Shah, a partner in the business partnership known as Maganlal Meghji Shah & Partners substituted in the suit, in place of the Plaintiff Babubhai M. Shah (deceased). Babubhai M. Shah died on 20/9/2017.

The Defendant filed Grounds of Opposition in which it claims that there is no partnership deed attached to the application. The Defendant also claimed that it stands to suffer prejudice if substitution is allowed without establishing who the administrator of the estate of Babubhai M. Shah is.

The court has looked at the documents filed by the Plaintiff. The grant of the suit property was issued to Sobhagchand Meghji Shah 50%, Maganlal Meghji Shah 25% and Babubhal Meghji Shah 25%. Grant of letters of administration were registered against the share held by Sobhagchand Meghji Shah on 13/12/2007. Half of Sobhagchand Meghji Shah's interest was transferred to Dayanti Sobhagchand Shah on 13/12/2007.

The Defendant entered into a lease dated 29/3/2010 with Damayanti Sobhagchand Shah, Maganlal Meghji Shah and Babulal Meghji Shah. Maganlal Meghji Shah who seeks to join the suit as the Plaintiff is also a party to the lease. The Defendant has not shown what prejudice it will suffer if the deceased Plaintiff is substituted.

The application is allowed as prayed. The Plaintiff is directed to file and serve the amended plaint within 14 days of today.

Dated and Delivered at Nairobi this 5th day of November 2018

K. BOR

JUDGE

In the presence of

Ms. Simiyu holding brief for Mr. Odhiambo for the Plaintiff

Mr. Kiurah holding brief for Mr. Chebii for the Defendant

Court Assistant- V. Owuor