



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO. 170 OF 2012

KIMIBEI ARAP TUEPLAINTIFF

VERSUS

SAMWEL KOSKEI.....1ST DEFENDANT

THE DISTRICT LAND REGISTRAR,NAKURU.....2ND DEFENDANT

AND

DANIEL KIPKEMOI SANG.....APPLICANT

RULING

(Application for substitution and amendment of plaint; application not opposed; application allowed)

1. The application before me is that dated 7 January 2016 filed by one Daniel Kipkemoi Sang. It is an application seeking orders that the applicant be substituted for the plaintiff, one Kimibei arap Tue, who is now deceased. It also seeks orders to amend the plaint.

2. The suit itself was commenced by way of plaint filed on 8 June 2011. The claim of the plaintiff (now deceased) is over the ownership of the land parcel Dundori/Mugwathi Block 2/733. It was his case that he is the rightful owner of the said land and he contended that a title issued to the 1st defendant is a fraudulent title. In the suit, he sought orders for rectification of the register to reflect him as owner. The 1st defendant filed defence and counterclaim. He has refuted the allegations laid down in the plaint and has asked for a declaration that he is the proper owner of the suit land.

3. It is now said that the plaintiff has died. I have seen annexed a Certificate of Death showing that the plaintiff died on 8 January 2015. On 30 June 2015, the applicant was granted a Limited Grant of Letters of Administration Ad Litem for the estate of the deceased.

4. The applicant has also annexed a draft amended plaint. I have seen that he intends to introduce two other defendants, namely Moses Ndua Mbugua and Francis Githinga Kiarie. It is contended that the two persons purchased the suit land fraudulently while this suit was still ongoing.

5. The application is not opposed and I see no reason why I should not allow it. I do permit the applicant to come into the suit in place of the deceased plaintiff. I also do allow the applicant to amend the plaint in line with what he has annexed in his application. I direct that the amended plaint be filed within the next

14 days and be served in the usual manner.

6. I make no orders as to costs.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 1st day of March 2017.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

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In presence of :

Mr. Ndung'u holding brief for Ms. Njoroge for the applicant

Mr. Aim present for the 1st defendant

No appearance on the part of the Attorney General-2nd defendant

Court Assistant : Nelima

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

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