



REPUBLIC OF KENYA
IN THE E.L.C. COURT OF KENYA

AT EMBU

E.L.C. NO. 31 of 2015

GATUMU MURUGA.....PLAINTIFF

VERSUS

PEPETUAL NJOKI GITHONGO (*suing for and on behalf of*

***A M (Minor)*.....DEFENDANT**

MIRIAM WANJIRU GATUMO.....1ST APPLICANT

EVALINA WANJIRA GATUMO.....2ND APPLICANT

RULING

1. By a Notice of Motion dated 17th March 2017 and filed on 20th March 2017, the two applicants, Miriam Wanjiru Gatumo and Evelina Wanjira Gatumo sought the following orders:

- a. The applicants being the administrators of the estate of the late Gatumu Muruga, be substituted as Plaintiffs in the suit.
- b. The restriction and/or caution placed upon L.R Gaturi/Githimu/413 be removed.
- c. The cost of the application be provided for.

2. The said application was based upon the grounds shown on the face of the Notice of Motion and the supporting affidavit sworn by the applicants on 17th March 2017.

3. The supporting affidavit states that the two applicants are the administrators of the estate of Wauga Muruga alias Wauga Waraga. They appear to have a judgement in favour of the estate of the deceased. Although the applicants did not exhibit a copy of the grant to their application at the time of filing, the court allowed them to produce a copy thereof at the hearing hereof. The Applicants also produced a copy of the certificate of confirmation of grant at the hearing hereof.

4. I have considered the application for substitution and the fact that it is not opposed by any party to the proceedings. The prayer for substitution is accordingly allowed.

5. The second prayer relates to removal of the caution or restriction entered against LR No Gaturi/Githimu/413 by the husband of the Defendant against whom judgement was entered in respect of

the property. The cautioner did not file any response to the application for removal of the caution and no just reason has been put forward why the execution of the decree of the court should be delayed whereas no appeal has been filed against the decree.

6. In the premises, the court grants both prayers (1) and (2) of the Notice of Motion dated 17th March 2017. There shall be no orders as to costs since the parties herein are close relatives.

Orders accordingly.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **15th** day of **JUNE, 2017**

In the presence of Evalina Wanjira, 2nd applicant. No appearance for the Respondent.

Court clerk Mr Njue

Y.M. ANGIMA

JUDGE

15.06.17