



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO.248 OF 2013

MOSES KIOI MUTURI.....PLAINITFF

VERSUS

LUCY WANJIRU NYAGA (Sued as the Administrator of the

Estate of the late JOSEPH NYANGA WAMBITI).....1ST DEFENDANT

CYRUS NGUGI MUGONYA2ND DEFENDANT

RULING

(Application for substitution of deceased plaintiff; applicant holding letters of administration ad litem; application allowed)

1. The application before me is that dated 5 June 2017 filed by one Jane Kirigo Moses. She wishes to be substituted for the plaintiff, one Moses Kioi Muturi, who is said to be deceased.
2. In the affidavit in support of the application, the applicant has averred that she is the daughter of the deceased. It is stated that Moses Kioi Muturi, died on 14 June 2016, while this suit was still pending. The applicant has stated that she has obtained letters of grant of administration ad litem, issued in Nakuru Succession Cause Ad Litem No. 92 of 2017. She has also averred that the cause of action survives the deceased and that she is desirous of continuing the suit on behalf of the estate of the deceased plaintiff.
3. I have considered the application. I have seen the exhibited grant of letters of administration ad litem, showing that the applicant has been granted authority to represent the estate of the deceased plaintiff in this suit. The case of the original plaintiff is that he purchased land described as LR No. 1144/325 in the year 1987 from the 1st defendant. He was then issued with title to the said land in the year 1991. In the year 2013, the 2nd defendant came to the land contending to be the owner and displayed a title to the same land but indicating title to the land parcel Naivasha Municipality Block 5/2, claiming to have bought it from the 1st defendant. In the suit, the plaintiff wants the title of the 2nd defendant cancelled.
4. It is clear that the subject matter of the suit survives the death of the plaintiff and can be continued by his estate. I also note that the application has been made within 1 year of the death of the plaintiff and the suit has therefore not yet abated.
5. I have no reason to decline the application. I allow it. I order Jane Kirigo Moses to be substituted for the original plaintiff Moses Kioi Muturi (deceased) and to continue the suit on behalf of the estate of the

said deceased.

6. There shall be no orders as to costs.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 15th day of June 2017.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of:

Ms. Ogange holding brief for Mr. Konosi for the plaintiff.

No appearance on the part of the defendants.

Court Assistant: Nelima

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU