



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MIGORI

ELC NO. 84 OF 2017

MICHEAL FRANCIS OKUMU

THAROGE KATHETHI.....PLAINTIFF/APPLICANTS

VERSUS

MILTON ACHIENG ODHUK

Alias OCHIENG ODHUK.....DEFENDANT/RESPONDENTS

RULING

1. A Notice of Motion dated 18/7/17 brought under Order 8 Rule 3 of the Civil Procedure Rules) AND Order 24 Rules 1, 2 & 3 of the Civil Procedure Rules Section 1A, 1B & 3A of the Civil Procedure Act by the plaintiff/applicant seeks the following orders:-

*a. The court be pleased to order that the applicant **GEORGE OUMA THAROGE**, being the duly appointed legal representatives of the Estate of Tharoge Kathethi (deceased) be substituted as the plaintiff thereby substituted as the plaintiff in this suit thereby substituting **THAROGE KATHETHI**.*

b. That upon the grant of prayer 1 above, the Draft annexed amended plaint be deemed as duly file and served.

c. The cost of this application be in cause.

2. The grounds of Notice of Motion are on the face of it with annexed documents. The grounds are:-

*a. That the applicant herein **GEORGE OUMA THAROGE** was granted letters of Administration Ad litem to the estate of **THAROGE KATHETHI** (deceased) on 6th day of July 2016.*

*b. That the plaintiff is deceased and can no longer pursue the claim herein and thus it therefore desirable that **GEORGE OUMA THAROGE** be substituted in this suit as plaintiff to enable her prosecute this suit to final determination.*

c. That the original plaintiff cannot continue to prosecute the suit herein since the same passed on thus the necessary to carry out substitution.

d. That no party will suffer any prejudice should the orders sought be grant as it is in the

interest of justice that the said orders do issue.

3. Mr. Ochwal for the defendant/respondent has no objection to the Notice of Motion.
4. I find the orders sought in the Notice of Motion meritorious. I allow the Notice of Motion accordingly.
5. The defendant to file and serve amended defence within 14 days from the date hereof.
6. The plaintiff to file and serve a reply, if any within 14 days to the date of service of amended defence.
7. Mention on 20/9/2017 for pre-trial directions.

DELIVERED, SIGNED and DATED in open court at MIGORI this **20th** day of July 2017.

G. M. A. ONGONDO

JUDGE

In the presence of :-

Mr. Omotto counsel for the Plaintiff/Applicant

Mr. Ochwal counsel for the Defendant

Tom – Court Assistant