



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ORIGINATING SUMMONS NO. 157 OF 2013**

**ANDREW LAIKAIBU KATHUKU Alias**

**NGINGA M'KAIBI .....PLAINTIFF/RESPONDENT**

**VERSUS**

**SAMWEL KAARIA M'KAIBI.....DEFENDANT/RESPONDENT**

**JACOB MIRITI KAARIA.....APPLICANT/PROPOSED DEFENDANT**

**R U L I N G**

1. This application states that it has been brought to Court under Order 24 Rules 4 and 5 and Order 51 Rule 1 of the Civil Procedure Rules, 2010.

2. The application seeks the following orders:-

***(1) THAT this application be certified urgent and be heard on priority basis.***

***(2) THAT this Honourable Court be pleased to issue an order substituting the Defendant who is deceased with the Applicant/proposed Defendant one JACOB MIRITI KAARIA for purposes of proceeding with the main suit herein.***

***(3) THAT the costs of this Application be in the cause.***

3. The application is supported by the affidavit of the Applicant JACOB MIRITI KAARIA sworn on 13th August, 2016 and has the following grounds:-

***(a) THAT the defendant died on 19th December, 2015.***

***(b) THAT the proposed Defendant is the eldest son of the deceased SAMWEL KAARIA M'KAIBI.***

4. On 21/11/2016, Advocate Nyauchi, representing the applicant told the Court that the application is merely facilitative to substitute the defendant with his son who has a grant of administration ad litem.

5. I note that the suit has not abated as against the defendant.

6. I agree that the application seeks to facilitate the expeditious hearing and determination of this suit.

7. The application is found meritorious.

8. In the circumstances, the application is allowed.

9. Costs shall be in the cause.

10. It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 23RD DAY OF NOVEMBER, 2016 IN THE PRESENCE:-**

C:A James

Nyauchi for the Plaintiff

Mutura h/b Kimathi Kiara for the Defendant

**P.M. NJOROGE**

**JUDGE**