



REPUBLIC OF KENYA



KENYA LAW
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**Rinkanya v Kathuni (Civil Appeal 286 of 2019)
[2025] KECA 397 (KLR) (14 February 2025) (Ruling)**

Neutral citation: [2025] KECA 397 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL 286 OF 2019
W KARANJA, JA
FEBRUARY 14, 2025**

BETWEEN

GIKUNDA RINKANYA APPELLANT

AND

GLADYS KATHUNI RESPONDENT

(Being an application for submission in appointment of Japhet Kirimi M'Rinkanya as respondent in Civil Appeal No. 286 of 2019 as the legal representative of the estate of Gladys Kathuni M'Rinkanya in Succession Cause No. 182 of 1984)

RULING

1. The appellant has moved the Court vide a notice of motion dated 25th May, 2023 seeking in the main an order that Japhet Kirimi M'Rinkanya be allowed as a respondent in Civil Appeal No. 286 of 2019 as the legal representative of the Estate of the Late Gladys Kathuni M'Rinkanya (deceased).
2. The Application is expressed to be predicated on Rule 5(2)(b) of the Court of Appeal Rules which is nonetheless not applicable to the prayer sought. I would have dismissed this application on that ground, but as the same is drawn by the applicant in person, who from the record before me appear to be elderly, I will determine it on merit.
3. My understanding of the application is that one Japhet Kirimi should be allowed to substitute Gladys Kathuni who died in 2019. I have nonetheless seen on record an order issued by the High Court (Edward Muriithi) where the court gave orders allowing the substitution of Gladys Kathuni (deceased) with Japhet Kirimi M'Rinkanya which is the same order the applicant herein seeks. In fact, he was the applicant in that application.
4. The orders sought in this application were the same orders sought in the application before Judge Muriithi, which order was granted. This application is therefore res judicata and the same is hereby dismissed with no order as to costs.



DATED AND DELIVERED AT NYERI THIS 14TH DAY OF FEBRUARY, 2025.

W. KARANJA

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

