



Ali v Muthuri & 7 others; Mutwiri (Applicant) (Civil Appeal (Application) E022 of 2024) [2025] KECA 571 (KLR) (28 March 2025) (Ruling)

Neutral citation: [2025] KECA 571 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) E022 OF 2024
S OLE KANTAI, JA
MARCH 28, 2025**

BETWEEN

MUSA MBAABU ALI APPELLANT

AND

ADAMSON MUTHURI 1ST RESPONDENT

NURU MBAABU 2ND RESPONDENT

HENRY MWORIA M'MAUTA 3RD RESPONDENT

NURU MBAABU 4TH RESPONDENT

JAMES MWENDA 5TH RESPONDENT

ANN MWARI 6TH RESPONDENT

JUDITH KAGWIRIA 7TH RESPONDENT

SAINA MARIAM ZUBERI 8TH RESPONDENT

AND

EMILY NKATHA MUTWIRI APPLICANT

(An application for substitution against the Judgment of the Court of Appeal at Nyeri in Civil Appeal No. E022 of 2024)

RULING

1. The applicant Musa Mbaabu Ali has approached the court under rule 102(1) of the Court of Appeal Rules praying that Saina Kalimi George (deceased) be substituted with Emily Nkatha Mutwiri. He says in grounds in support of the application and in a supporting affidavit of the said Emily Nkatha Mutwiri that the deceased has since died; that the applicant is the daughter of the deceased who has



been issued with grant of administration ad litem limited to the prosecution of Nyeri Civil Appeal No. E022 of 2024 on behalf of the estate of the deceased;-

“That at the time of her demise our mother was the 1st respondent and an administrator of Estate of Mbbabu M’Ibutu (deceased) and I have been issued with a limited grant for purposes of proceeding with Nyeri Civil Appeal Application No. E022 of 2024- Musa Mbaabu Ali-vs- Saina Kalimi George & 8 Others on behalf of the Estate of Saina Kalimi George (deceased). Annexed herein and marked “EKM2” is a copy of the limited grant.”

2. Further, that they have agreed as a family that she be substituted in place of the deceased. Attached to the affidavit is a copy of Certificate of Death in respect of the deceased and a copy of the limited grant of letters of administration.
3. I have seen hearing notice dated 7th March, 2025 at 12.53 3.p.m. to Kevin Nyenyire nyenyire@gmail.com mdmaranya@gmail.com, kaberiirimba@yahoo.com, kaberiaw@gmail.com, Nyiha Mukoma Advocates info@nyihamukoma.com where parties were advised of the hearing date and were required to file written submissions. I have not seen any submissions by any side.
4. The applicant says that the deceased died. I have indeed seen Certificate of Death. The applicant says that the family of the deceased have deliberated on the issue and decided that Emily Nkatha Mutwiri be appointed in place of the deceased. I think that it is in order that the wishes of the family be fulfilled. I allow the Motion and make no order on costs.

DATED AND DELIVERED AT NYERI THIS 28TH DAY OF MARCH, 2025.

S. ole KANTAI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

