



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**M'noti & 3 others v M'iniu (Civil Appeal (Application)
278 of 2019) [2025] KECA 567 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KECA 567 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) 278 OF 2019
S OLE KANTAI, JA
MARCH 28, 2025**

BETWEEN

**SABELLA GAITI M'INOTI 1ST APPELLANT
JAPHET KINYUA M'INOTI 2ND APPELLANT
FRANKLINE MURIUNGI M'INOTI 3RD APPELLANT
GERRISHON GITUMA M'INOTI 4TH APPELLANT**

AND

ALFRED MUGAMBI M'INIU RESPONDENT

((An application for the revival of the appeal and substitution) in Civil Appeal No. 278 of 2019.)

RULING

1. In the Motion bought under rule 102 of the Court of appeal Rules the appellants pray that the court be pleased to order the appointment of the respondent's legal representative one Stanley Mwiti M'noti as a party to represent the respondent who is deceased; that the court be pleased to revive the appeal which has abated. The application is supported by grounds on its face and a supporting affidavit of one of the appellant's Gerrishon Gituma M'Inoti to the effect that the appeal has been pending but that the respondent died on 18th November, 2022; that it took the appellants time to have the family of the deceased to take out a grant which took time to be done; that there is need to have a legal representative to be appointed to represent the deceased in the appeal. Further, that after the appellants applied in Miscellaneous Succession Case No. E006 of 2024 the respondents finally agreed that Stanley Mwiti M'Inoti take up the grant in respect of the Estate of the deceased. Attached to the application is a limited grant (letters of Administration Ad Litem) in Chief Magistrates Court of Kenya at Meru in Miscellaneous Case No. 27 of 2024 In the matter of the Estate of Alfred Mugambi M'Iniu (deceased) issued on 29th February, 2024.



2. I have seen hearing notice dated 7th March, 2025 at 11.37 a.m. to danielanampiu anampiugikunda@gmail.com, leonardondari kibagendiondari@yahoo.com, willsonpmburungu wilsonpmburugu@gmail.com where the parties were notified of the hearing date and were required to file written submissions. I have not seen any submissions by either side.
3. I am told that the respondent died on 18th November, 2022. The appeal has since abated as no application was made within 12 months of the death of the respondent.
4. The applicants made efforts to have the respondent substituted and filed an application in the subordinate court where a legal representative was appointed to represent the Estate of the deceased. The applicants have satisfied the requirement in rule 102 of the rules and are entitled to substitute the deceased respondent with the person appointed as the legal representative of the Estate of the deceased. The Motion succeeds and I allow it. Stanley Mwiti M'Inoti will represent the Estate of the respondent. I revive the appeal which will be listed for hearing in the normal way. I make no order on costs.

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

S. ole KANTAI

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

