



Ngine & 4 others v Njoka & another (Civil Appeal (Application) E141 of 2022) [2025] KECA 562 (KLR) (28 March 2025) (Ruling)

Neutral citation: [2025] KECA 562 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) E141 OF 2022
S OLE KANTAI, JA
MARCH 28, 2025**

BETWEEN

**DISHON MAREKO MWA NGINE 1ST APPLICANT
NYAGA BURANA 2ND APPLICANT
NAAMAN IRERI SIGNANA 3RD APPLICANT
EZEKIEL NDARA 4TH APPLICANT
GILBERT KIURA MATHOROKO 5TH APPLICANT**

AND

**FRANCIS NJERU NJOKA 1ST RESPONDENT
FAUSTINO NJERU NJOKA 2ND RESPONDENT**

RULING

1. By Motion on notice brought under section 3A and 3B of the [Appellate Jurisdiction Act](#), rules 4, 87 and 102 of the Court of Appeal Rules and all other enabling provisions of law the applicants pray that I be pleased to revive this appeal which abated on 9th June, 2024 following the lapse of 60 days following the order of this Court issued on 9th April, 2024; that Mary Nthuraku Njeru and Inyasio Mwaniki Ngari the representatives of the Estate of Francis Njeru (deceased) who is the 2nd respondent in the appeal be made parties to the proceedings by way of substitution of the said deceased.
2. In grounds in support of the application and in a supporting affidavit of Naaman Ileri Sigana it is said amongst other things that the appeal came up for hearing on 9th April, 2024 when counsel for the respondents indicated to court that several parties to the appeal had since died; that the court ordered the appellants to file an application to substitute the deceased parties; that the 3rd appellant, a person of advanced age, was unable to get relevant information within 60 days as ordered by the court; that he has since obtained a copy of a Certificate of Confirmation of Grant in relation to the estate of Francis



Njeru (the 2nd respondent) issued to Mary Nthuraku Njeru and Inyasio Mwaniki Ngari as personal representatives of the deceased; that the appeal should be revived in the interests of justice. Attached to the application is a Certificate of Confirmation of Grant issued on 8th April, 2023 in respect of the Estate of the 2nd respondent (deceased).

I have seen hearing notice dated 7th March, 2025 at 11.40 a.m. to ekmutuaoffice@gmail.com and dmuyodi@gmail.com where parties were notified of hearing date and were required to file written submissions. I have seen and considered written submissions by the applicants but the respondents did not file submissions.

The applicants were ordered to file an application for substitution of the 2nd respondent within 60 days but did not do so.

3. The deponent to the supporting affidavit tells me that he is of advanced age and that his gallant efforts to file the application within the time ordered did not succeed as he did not obtain the relevant information within the time ordered to enable him file the application. He later obtained a copy of the Grant where two individuals were appointed to represent the Estate of the deceased respondent. I think that this is a reasonable explanation and it is fair that I allow the application.

I allow the application by reviving the appeal; Mary Nthuraku Njeru and Inyasio Mwaniki Ngari will be the representatives of the Estate of Francis Njeru (deceased). 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

