



**Kenga v Leshao & 18 others (Environment & Land Case
90 of 2019) [2024] KEELC 1683 (KLR) (19 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1683 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 90 OF 2019
FM NJOROGE, J
MARCH 19, 2024**

BETWEEN

KATANA CHARO KENGA PLAINTIFF

AND

JOHN MARK LESHAO & 18 OTHERS DEFENDANT

RULING

1. For determination is the 1st and 2nd Defendants' notice of motion application dated 25th January 2024, for orders that: -
 - a. That the honourable court be pleased to grant leave to the 1st and 2nd Defendant to file authority to act dated 1st May 2022;
 - b. That the honourable court be pleased to allow the 2nd defendant to appear, plead or act on behalf of the 1st Defendant;
 - c. That the honourable court be pleased to allow the 1st Defendant's sworn statement dated 8th February 2023;
 - d. That the annexed authority to act, subject to the payment of necessary filing fees be deemed duly filed and served;
 - e. That costs be in the cause.
2. In support of the application are the grounds on the face of the motion and the affidavit sworn by the 2nd Defendant, Peter Kiragu Kagunyuu, on 30th January 2024. The 2nd Defendant deposed that since the 1st Defendant's demise on 19th July 2023, his estate has been unable to apply for a limited grant for purposes of proceeding with this suit, for the reason that the 1st Defendant's former employer has continued to hold the death certificate, and it is not certain when the same will be released to the estate.



That prior to his demise, the 1st Defendant had authorized the 2nd Defendant to plead on his behalf in this suit. He annexed a copy of the said authority annexed to the supporting affidavit of their other notice of motion dated 5th May 2022.

3. The Plaintiffs opposed the application. They filed grounds of opposition dated 12th February 2024 stating that the power or authority to plead granted to the 2nd Defendant terminated upon the death of the donor, the 1st Defendant herein; and that the estate should obtain a duplicate of certificate of death from the relevant offices for purposes of applying for grant ad litem.
4. On 22nd February 2024, this court issued directions that the application be canvassed by way of written submissions to be filed by the 1st and 2nd Defendants within 7 days thereon and by the Plaintiffs within 7 days upon service. This time has since lapsed and neither party has filed submissions.
5. Having failed to comply with the directions of this court, I take it that the application has been abandoned. The same is hereby dismissed with no orders to costs.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 19TH DAY OF MARCH 2024.

MWANGI NJOROGE

JUDGE, ELC, MALINDI

