



**Odongo & another v Ojuok (Civil Application E132 of 2021)
[2024] KECA 1809 (KLR) (20 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1809 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPLICATION E132 OF 2021
MSA MAKHANDIA, JA
DECEMBER 20, 2024**

BETWEEN

MARY OMOLLO ODONGO 1ST APPLICANT

APOLLO ODHIAMBO GUYA 2ND APPLICANT

AND

HELLEN AUMA OJUOK RESPONDENT

(An application by Patrick Ojuok Ouma for substitution of the respondent (deceased) as the administrator of the estate and vacation of the status quo order issued on 28th November 2022 arising from the Judgment of the Environment and Land Court at Kisumu (Ombwayo, J.) dated 13th March 2020 in ELC Case No. 13 of 2019)

RULING

1. This is an application by Patrick Ojuok Ouma, who claims to be an Interested Party in this appeal. He seeks that this Court be pleased to substitute Hellen Auma Ojuok, deceased, the respondent in the pending appeal with himself as he is the administrator of her estate. The application is pursuant to sections 3A and 3B of the [Appellate Jurisdiction Act](#), Rule 99 of the Appellate Jurisdiction Rules (sic) and all other enabling provisions of the law.
2. From the grounds and the supporting affidavit sworn by the applicant, the following undisputed facts emerge, that: the respondent died on 7th February 2021 before the appeal was filed; the judgment, the subject matter of the appeal was delivered on 13th March 2020; the Letters of Administration in respect of the estate of the deceased were granted to the applicant on 7th January 2023; and that when the appeal came up for hearing, the issue of the death of the deceased was raised and the Court directed that the deceased respondent be substituted within 60 days, hence the instant application.



3. This far, the application is unopposed since the appellants have not filed any papers in opposition to the application. Having carefully considered the application, the grounds in support thereof as well as the supporting affidavit, I am satisfied that indeed the respondent died on 7th February 2021, that on 17th January 2023, a grant of Letters of Administration intestate was issued to the applicant by the Principal Magistrate's Court at Maseno in Succession Cause No. E139 of 2022.
4. In the premises, and there being no challenge to the application by the appellants, I grant prayer 2 of the application. However, I am unable to entertain prayer 3 of the application as the jurisdiction to grant such prayer is only exercisable by a full bench of this Court.

DATED AND DELIVERED AT KISUMU THIS 20TH DAY OF DECEMBER, 2024.

ASIKE-MAKHANDIA

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JUDGE OF APPEAL

I certify that this is a True copy of the original

Signed

DEPUTY REGISTRAR

