



**Kangangi v Iburi & another; Mwirigi & another (Intended Appellants) (Suing as Intended Legal Representative of the Estate of Jacob Kabuto Mwirigi) (Civil Appeal (Application) 258 of 2019) [2023] KECA 1019 (KLR) (30 June 2023) (Ruling)**

Neutral citation: [2023] KECA 1019 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NYERI  
CIVIL APPEAL (APPLICATION) 258 OF 2019  
W KARANJA, JA  
JUNE 30, 2023**

**BETWEEN**

**JACOB KABUTO KANGANGI ..... APPELLANT**

**AND**

**ERNEST M. MUGAMBI R. IBURI ..... 1<sup>ST</sup> RESPONDENT**

**JACOB HENRY KIRIMI ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**JANICE GACHERI MWIRIGI ..... INTENDED APPELLANT**

**KITHINJI KIMAITA MWIRIGI ..... INTENDED APPELLANT**

**SUING AS INTENDED LEGAL REPRESENTATIVE OF THE ESTATE OF JACOB KABUTO MWIRIGI**

*(Being an Application for substitution and revival of the appeal from the Judgment of the High Court of Kenya at Meru (E. C. Cheronu, J.) dated 18th October, 2018 and delivered on 31st October, 2018 Hon. Lady Justice Lucy N. Mbugua J) in ELC CASE NO. 61 OF 2017 (Formerly Civil Case No. 97 of 2004 (O.S))*

**RULING**

1. Before me is a Notice of motion dated September 19, 2022 brought under rule 99 of the [Court of Appeal Rules](#) 2010. The applicants, Mary Z Kathure Mugambi and Ann Beatrice K Kimathi, seek 2 orders. The first order seeks to revive the appeal against Ernest M Mugambi R Iburi (deceased) who was the first respondent in the appeal. The application is premised on the grounds on its face and supported by the applicant's affidavit sworn on even date.



2. I have noted the contents of the said affidavit along with the listed grounds. The applicants need to demonstrate 2 issues. That the 1<sup>st</sup> respondent is deceased and the appeal has already abated, and that the appellants are the duly appointed legal representatives to the estate of the first respondent.
3. On the first issue, there is a death certificate on record showing that the first respondent died on March 25, 2019, and the appeal therefore, stood abated 12 months from that date.
4. On the second issue, there is also on record a copy of a Grant of letters of administration issued on November 3, 2020 appointing the 2 applicants as personal representatives to the estate of the deceased.
5. Accordingly, having satisfied the two issues as required, and there being no objections by any party, the application dated September 19, 2022 is hereby allowed and prayers 1 and 2 granted as prayed with no order as to costs.

**DATED AND DELIVERED AT NYERI THIS 30<sup>TH</sup> DAY OF JUNE 2023**

**W. KARANJA**

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**JUDGE OF APPEAL**

*I certify that this is a true copy of the original.*

**DEPUTY REGISTRAR**

