



REPUBLIC OF KENYA



KENYA LAW
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**Kamau v Perimoi & another (Civil Appeal (Application)
275 of 2019) [2022] KECA 130 (KLR) (18 February 2022) (Ruling)**

Neutral citation: [2022] KECA 130 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPEAL (APPLICATION) 275 OF 2019
HM OKWENGU, JA
FEBRUARY 18, 2022**

BETWEEN

**JACOB GITHINJI KAMAU (SUING AS THE LEGAL REPRESENTATIVE OF
KAMAU KANIA) APPELLANT**

AND

PATRICK PERIMOI 1ST RESPONDENT

MARY NDUTA KAGWIMA 2ND RESPONDENT

(Being an application to seek leave to file the applicant's record of appeal lodged on 7th October 2019 out of time, being an appeal from the Judgment of the Environment and Land Court at Nakuru (M. Sila, J.) delivered on 12th June, 2019 in Nakuru ELC No. 45 of 2013)

RULING

- [1] This matter was listed before me as a single Judge for hearing of a notice of motion dated 15th October, 2019. The matter was to be heard on 8th December, 2021 by way of written submissions without the presence of parties. The physical file was availed to me and I gave a ruling date on the assumption that parties had filed written submissions.
- [2] Upon carefully perusing the file, I have come across a notice of appointment filed on behalf of the 2nd respondent, Mary Nduta Kagwima. I have not seen any written submissions filed by the parties, nor have I have seen any notice served on the parties for the hearing on 8th December 2021, nor did the Registrar of the Court avail to me any notice served through email.
- [3] In addition, I have come across a ruling in the file dated 18th November, 2019 by my brother, Kantai, JA indicating that the 1st respondent is deceased, and that proper service of hearing notice was to be effected after appropriate steps are taken by the appellant. There is no indication in the file of any steps having been taken in regard to substitution of the 1st respondent.



[4] In the circumstances, I am unable to deal with the notice of motion dated 15th October, 2019 and therefore mark the same as stood over generally. A new hearing date may be fixed and the 2nd respondent served.

DATED AND DELIVERED AT NAIROBI THIS 18TH DAY OF FEBRUARY, 2022.

HANNAH OKWENGU

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR

