



Kakundi v Kamu (Suing as the Legal Representative of the Estate of the Late Martha Mbane) & another (Civil Appeal E484 of 2021) [2022] KECA 1050 (KLR) (23 September 2022) (Ruling)

Neutral citation: [2022] KECA 1050 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL E484 OF 2021
PM GACHOKA, JA
SEPTEMBER 23, 2022**

BETWEEN

HARRISON MUSYIMI KAKUNDI APPELLANT

AND

**SIMON MUTHAKA KAMU (SUING AS THE LEGAL REPRESENTATIVE OF
THE ESTATE OF THE LATE MARTHA MBANE) 1ST DEFENDANT**

JEREMIAH NZOMO MASAI 2ND DEFENDANT

*(Being an appeal from the Judgment of the Environment and Land
Court of Kenya at Makueni (Mbogo C.G, J.) delivered on the 29th day
of June 2021 in Environment and Land Court Case No. 08 of 2019)*

RULING

1. The Applicant has approached this court by way of a Notice of Motion dated August 1, 2022 under Article 259 (2) of the *Constitution*. Rule 31, 69 and 99 of the *Court of Appeal Rules*, Section 3, 3A and 38 of the *Appellants Jurisdiction Act*, Order 1 Rules 1, 3 and 10 and Order 51 Rule 1, Section 1A and 1B and 31 of the *Civil Procedure Act* seeking the following orders: -

“(i)

ii. That, Aaron Kyengo Kamu be substituted in place of Simon Muthuka Kamu (now deceased) being the legal administrator of the estate of the late Martha Mbane.

iii. ”

2. On September 16, 2022, the Parties files a consent in the following terms: -

“..We the undersigned Advocates for the parties, would be obliged if you could kindly record the following order by consent of the parties:-



By consent of the parties herein, parties have agreed on settlement and division of matrimonial property in the following terms;

- i. That leave be granted to the firm of Kivuitu Maundu & Co. Advocates to act for and on behalf of the Respondent herein in place of Mwangangi & Associates Advocates.
- ii. That the Honorable Court be pleased to substitute the Respondent Simon Muthuka Kamu (now Deceased) with Aaron Kyengo Kamu.
- iii. That the application dated 11th April 2022 be hereby marked as fully settled on the above terms.”

Noting that the parties have signed and filled the written consent, the court hereby adopt the said consent. Accordingly, an Order is hereby issued as follows;-

- i. That leave be granted to the firm of Kivuitu Maundu & Co. Advocates to act for and on behalf of the Respondent herein in place of Mwangangi & Associates Advocates.
- ii. That the Honourable Court be pleased to substitute the Respondent Simon Muthuka Kamu (now Deceased) with Aaron Kyengo Kamu.
- iii. That the application dated 11th April 2022 be hereby marked as fully settled on the above terms.”

DATED AT NAIROBI THIS 23RD DAY OF SEPTEMBER, 2022.

I certify that this is a true copy of the original

Signed

M. GACHOKA, CIArb, FCIArb

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JUDGE OF APPEAL

DEPUTY REGISTRAR

