



REPUBLIC OF KENYA



KENYA LAW
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**Mathii v Bedan (Civil Appeal (Application) 35 of 2019)
[2022] KECA 1129 (KLR) (19 October 2022) (Ruling)**

Neutral citation: [2022] KECA 1129 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) 35 OF 2019
LK KIMARU, JA
OCTOBER 19, 2022**

BETWEEN

FRANCIS MAINA MATHII APPLICANT

AND

PETER NGURU BEDAN RESPONDENT

(An application for leave to appeal out of time against the Ruling/Order of the High Court of Kenya at Murang'a (Kemei, J.) dated 31st July, 2018 in E.L.C. No. 415 "B" of 2017)

RULING

1. The Applicant, Francis Maina Mathii filed an application pursuant to Rule 4 of the Court of Appeal Rules seeking to be granted leave to appeal out of time from the decision rendered by the Murang'a Land and Environment Court that was rendered on 31st July, 2018. The application was lodged in this Court on 10th February, 2021. In an email written to the Deputy Registrar of this Court dated 18th October, 2022, by G. K. Kibira & Company Advocates, the Court has been informed that the Applicant died on 5th November, 2021. No evidence in form of a death certificate or a burial permit was placed before the Court to support the said Advocate's assertion that indeed the Applicant is deceased. Despite of that fact, this Court cannot ignore the information and proceed with the hearing of the application before a required clarification is made.
2. In the circumstances therefore, the hearing of this application is adjourned until the requisite documents are filed in Court indicating that indeed the Applicant is deceased or if the Applicant's death is confirmed, until an appropriate application is filed by a personal representative to substitute him as a party to these proceedings.
3. There shall be no orders as to costs.

DATED AT NYERI THIS 19TH DAY OF OCTOBER, 2022.



L. KIMARU
JUDGE OF APPEAL

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

DEPUTY REGISTRAR

