



REPUBLIC OF KENYA



Kanampiu & 2 others v Justus; Mugambi (Intended Respondent) (Civil Appeal (Application) 97 of 2017) [2022] KECA 1157 (KLR) (18 October 2022) (Ruling)

Neutral citation: [2022] KECA 1157 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NYERI
CIVIL APPEAL (APPLICATION) 97 OF 2017**

LK KIMARU, JA

OCTOBER 18, 2022

BETWEEN

AMOS MBAE KANAMPIU 1ST APPLICANT

JOHNSON NJERU KIRIMO 2ND APPLICANT

LUCY GATAKAA 3RD APPLICANT

AND

ALICE KATHURE JUSTUS RESPONDENT

AND

HARRIET MUTHONI MUGAMBI INTENDED RESPONDENT

(Being an application for substituting the Respondent Alice Kathure Justus who is now deceased with one Harriet Muthoni Mugambi for purposes of proceeding with the Civil Appeal herein being an appeal from the Ruling of the High Court of Kenya at Chuka (Limo, J.) dated 17th May, 2017 in H. C. Misc. Appl. No. 26 of 2016)

RULING

1. Harriet Muthoni Mugambi (applicant) has filed this application seeking to substitute Alice Kathure Justus (deceased) who died on July 15, 2021. She was a Respondent in this appeal.
2. The applicant states that she is the daughter of the deceased and desires to come on record in this appeal since the subject matter of the appeal is land. She has attached a Limited Grant of Letters of Administration and Litem issued on 10th February, 2022 in Meru Court Miscellaneous Succession Cause No. 19 of 2022 which declares that she is the personal representative of her deceased mother. The application is not opposed.



3. Although the Applicant did not cite any rule to predicate the application, Rule 102 (3) of the *Court of Appeal Rules* 2022 grants this Court discretion to revive the appeal and substitute the personal representative of the deceased who was a party to the Appeal. This Court is persuaded that the application is merited and is allowed in the following terms:

1. Harriet Muthoni Mugambi is hereby allowed to substitute Alice Kathure Justus (deceased) as the Respondent in this appeal.
2. There shall be no orders as to costs. Dated at Nyeri this 18th day of October, 2022.

L. KIMARU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR

