



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: NAMBUYE, J.A (IN CHAMBERS))

CIVIL APPEAL (APPLICATION) NO. 45 OF 2020

BETWEEN

JAMES NDEGWA THUKUAPPLICANT

AND

JORETH LIMITED.....1ST RESPONDENT

ASHERA HOLDINGS LIMITED2ND RESPONDENT

(An appeal from the Judgment of the Environment and Land Court (Hon. Bor, J.) dated 13th December 2019

in

Milimani ELC No. 1027 of 2012)

RULING OF THE COURT

1. **UPON** perusing the Notice of Motion dated 4th May 2020 by the Appellant/Applicant, under **Rules 99(1)** and **42(1)** of this Court’s Rules, substantively seeking an order that the Applicant **Ann Mirigo**, the legal representative of **James Ndegwa Thuku**, now deceased, be substituted as the appellant in Civil Appeal No. 45 of 2020; and an order that costs of the application do abide the outcome of Civil Appeal No. 45 of 2020; and
2. **UPON** reading the grounds in the body of the application and the supporting affidavit of **Ann Mirigo**, sworn on 4th of May 2020 in support of the application together with annexures thereto; and
3. **UPON** noting that there is no replying affidavit by the respondent in opposition to the application despite service upon them of the hearing notice by the registrar of the Court on Friday, 2nd October 2020; and
4. **HAVING** considered the threshold for granting relief under the cited rules of this court, I am satisfied that the applicant’s unopposed application is meritorious; and
5. **HAVING** reached that conclusion, I make the following orders:
 - (i) **Prayer (1) of the unopposed application dated 4th May, 2020 be and is hereby allowed.**
 - (ii) **Costs of the application to abide the outcome of appeal No. 45 of 2020.**

Dated and delivered at Nairobi this 9th day of October, 2020.

R. N. NAMBUYE

.....

JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR