



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: MURGOR, J.A. (IN CHAMBERS))**

**CIVIL APPEAL NO. 242 OF 2015**

**BETWEEN**

**1.MBAGE NJUGUNA NG'ANG'A .....1<sup>ST</sup> APPELLANT**

**2.PAUL GATHURU KARIUKI.....2<sup>ND</sup> APPELLANT**

**AND**

**1.REPUBLIC.....1<sup>ST</sup> RESPONDENT**

**2.REGISTRAR OF LANDS.....2<sup>ND</sup> RESPONDENT**

**3.TERESA GESARE KEBWARO.....3<sup>RD</sup> RESPONDENT**

*(An appeal from the judgment of the High Court of Kenya at Nairobi (Odunga, J.) dated 27<sup>th</sup> March 2014*

in

***H.CCC No. 683 of 2006)***

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**RULING**

This Notice of Motion dated 6<sup>th</sup> February 2020 that is expressed to have been made under **rule 85(2)** of the Court of Appeal Rules seeks orders;

***“That Ombui Richard be enjoined in the suit as the legal Administrator of the Estate of Teresa Gesare Kebwaro (Deceased) as the interested party”***

The application is premised on the grounds that Teresa Gesare Kebwaro (Deceased) who was the 3<sup>rd</sup> respondent in the appeal, died on 12<sup>th</sup> October 2005 and a Grant of Letters of Administration was issued to Ombui Richard as one of the Administrators of the Estate of the deceased on 23<sup>rd</sup> January 2014.

However, a review of the record reveals that on 20<sup>th</sup> January 2020 following an application by the 1<sup>st</sup> appellant for withdrawal of the appeal against the deceased, this Court struck out the deceased from the appeal.

As such, given that the motion seek to join the legal representative of a deceased whom this Court struck out from the appeal on 20<sup>th</sup> January 2020, I am of the view that the order that best lends itself to the circumstances of this case is for the motion be adjourned and again placed before the full Court for determination.

Accordingly, in terms of **rule 53 (1)** of the **Court of Appeal rules**, the application is adjourned for another date to be fixed in the Registry on a priority basis whereupon the Registry is directed to place this application before the full Court for hearing and determination.

Costs in the application.

***DATED and delivered at Nairobi this 4<sup>th</sup> day of December, 2020.***

**A. K. MURGOR**

.....

**JUDGE OF APPEAL**

*I certify that this is a true*

*copy of the original.*

*Signed*

**DEPUTY REGISTRAR**