



IN THE COURT OF APPEAL

AT ELDORET

(CORAM: GITHINJI, JA. (IN CHAMBERS))

CIVIL APPEAL NO. 64 OF 2015

BETWEEN

FRANCIS KAAGU KARICHU.....APPELLANT

AND

JOHNSON MBURU KARICHU..... RESPONDENT

(An appeal from a Judgment of the High Court of Kenya at Eldoret, (A. Mshila. J.) dated 17th May, 2013 and delivered by G. W. Ngenye Macharia, J. on 29th May, 2013 in H. C. SUCC CAUSE NO. 182 OF 1996

RULING

This is an application by the appellant in the appeal for substitution of Lucy Nyambura Mburu for the deceased Johnson Mburu Karichu, the respondent in the appeal.

I have studied the supporting affidavit and the annexed documents. I have also studied the contents of the Replying affidavit of Lucy Nyambura Mburu sworn on 18th January, 2017.

I have also taken into consideration the provisions of Rule 99(1) and 99(2) of the Court of Appeal Rules. Under Rule 99(1), the Court has a duty on application of any interested person to cause a legal representative of a deceased party to be made a party to an appeal.

The respondent died on 18/12/2015. The present application was filed on 16th December, 2016 which is within the 12 months stipulated by rule 99(2).

Lucy Nyambura Mburu was appointed as legal representative of Johnson Mburu Karichu on 14th September, 2016 in Eldoret High Court, Succession Cause No. 25 of 2016.

In the circumstances, there is no valid reason why the application should not be allowed.

Accordingly the application is allowed.

Lucy Nyambura Mburu is joined as a party in the appeal herein as a legal representative of the deceased/respondent. Costs of the application shall be costs in the appeal.

Dated and delivered this 25th day of April, 2017.

E. M. GITHINJI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR