



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL**  
**AT KISUMU**  
**(CORAM: GITHINJI, J.A. (IN CHAMBERS))**  
**CIVIL APPEAL (APPLICATION) NO. 316 OF 2006**

**BETWEEN**

**ELIZABETH AMAIZA ..... APPLICANT/1<sup>ST</sup> RESPONDENT**  
**AND**  
**JACKSON SABATIA NATSE ..... 1<sup>ST</sup> RESPONDENT/ APPELLANT**  
**THE ATTORNEY GENERAL ..... 2<sup>ND</sup> RESPONDENT**  
**THE PRINCIPAL MAGISTRATE'S KAPSABET ..... 3<sup>RD</sup> RESPONDENT**  
**KAPSABETLAND DISPUTES TRIBUNAL ..... 4<sup>TH</sup> RESPONDENT**

*(Application for Mr William Shivachi Miheso the Administrator of the Estate of the applicant to be made a party to the appeal in place of the first respondent Elizabeth Amaiza (deceased) in an appeal from the ruling and or order of the High Court of Kenya at Kakamega (Kariuki, J.) dated 5<sup>th</sup> day of November, 2004*

in

*H.C.MISC.C.APP.NO.108 OF 2002)*

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**RULING**

This is an application under **Rule 96** of the Court of Appeal Rules for an order that **William Shivachi Miheso** the administrator of the estate of **Elizabeth Amaiza** (deceased), the 1<sup>st</sup> respondent in **Civil Appeal No.316 of 2006** be made a party in the appeal in place of the deceased.

Although all the respondents were served with the application and hearing notice, none neither filed a replying affidavit nor attended the hearing of the application.

A copy of a certificate of death annexed to the supporting affidavit of the applicant William Shivachi Miheso verifies that “Sabeti Amaiza” died on 7<sup>th</sup> October, 1979. Further a grant of letters of administration to the estate of the deceased was granted to the applicant on 19<sup>th</sup> March, 2010. The applicant deposes in paragraph 4 of the supporting affidavit to the effect that “Sabeti Amaiza” and “Elizabeth Amaiza” refer to one and the same person. The present application was filed on 9<sup>th</sup> April 2010,

within the 12 months limitation period stipulated in **Rule 96(2)** of the Court of Appeal Rules.

In the circumstances I am satisfied that the application, which is not in any case opposed, is competent and I allow it with costs in the appeal.

Orders accordingly.

***Dated and delivered at Kisumu this 2<sup>nd</sup> day of December, 2010.***

**E.M. GITHINJI**

.....  
**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**