

IN THE COURT OF APPEAL

AT NAKURU

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

CIVIL APPLICATION NO. NAI 358 OF 2001 (NKR 34/01)

BETWEEN

MONICA WAMUHU MACHARIA (

The Administratrix of the Estate of Peter Macharia) APPLICANT

AND

THE ATTORNEY GENERAL

KIPSINENDE FARM LIMITED RESPONDENTS

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R U L I N G

Counsel for the second respondent opposes the applicant's application for substitution under **rule 96 of the Rules of this Court** principally because it has not been explained satisfactorily that **Peter Macharia** is one and the same person as Peter Macharia Marianjugu. From the supporting affidavit of the applicant who depones that she is the wife of Peter Macharia and who is the administratrix of the estate of **Peter Macharia Marianjugu**, Peter Macharia is one and the same person as Peter Macharia Marianjugu. That is the name that appears on the deceased's death certificate. It is not disputed that the applicant is the wife of the deceased Peter Macharia Marianjugu and that she is the administratrix to the estate of the said deceased person. There can therefore be no better person to affirm that Peter Macharia is one and the same person as Peter Macharia Marianjugu. In that regard therefore, I can find no merit in the 2nd respondent's opposition to the applicant's application for substitution under rule 96 of the Rules of this Court. In the result, the applicant's application is granted so that the applicant is substituted in place of Peter Macharia in this Court's Civil Appeal 282 of 1998. I make no order as to the costs occasioned by this application.

Made at Nakuru this 20th day of February, 2002.

J. E. GICHERU

JUDGE OF APPEAL

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

DEPUTY REGISTRAR