



REPUBLIC OF KENYA



KENYA LAW
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**Okoth & another v Aloo (Environment and Land Appeal
E006 of 2023) [2025] KEELC 754 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 754 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT AND LAND APPEAL E006 OF 2023**

E ASATI, J

FEBRUARY 20, 2025

BETWEEN

HANNINGTON STEPHEN OKOTH 1ST APPELLANT

CHARLES HERALD OKOTH 2ND APPELLANT

AND

RAMJUS OPEYO ALOO RESPONDENT

RULING

1. This ruling is in respect of the Notice of Motion application dated 2nd October, 2024 seeking for orders that the honourable court be pleased to rectify the Respondent's name in the ELC Appeal No. E006 of 2023 and the judgement delivered on 22nd February 2024 to read Joanes Obara Opeyo instead of Ramjus Opeyo Aloo to enable the Registrar to register the court order and the same to rectify the register pursuant to court order.
2. The application was based on the grounds that the Applicant had applied to the Land Registrar for registration of the court order for rectification of the register of land parcel No. Kisumu/marera/2496 in the manner set out in the order. That at the time the Appellants were filing the appeal, Ramjus Opeyo Aloo, deceased had been substituted in the lower court Case No. Maseno PMC ELC No.005 of 2019.
3. The application was opposed vide the Grounds of Opposition dated 18th October, 2024; that the court is *functus officio* there being a judgement delivered already, and that the orders sought fall within the jurisdiction of the subordinate court.
4. The application was argued orally on 22nd October, 2024. The Applicant submitted that he sought to have the name of Ramjus replaced with the name of the Applicant.



5. On behalf of the Respondent it was submitted that the kind of relief sought can be granted by the subordinate court. That the Applicant has relied on the provisions of Order 23 Rule 4 which deals with a different subject namely; attachment of debts and Garnishee proceedings. That there is an appeal filed to the Court of Appeal.
6. I have considered the application, grounds of opposition and submissions made. The Memorandum of Appeal dated 16th February, 2023 that commenced the appeal herein showed that the Respondent was Ramjus Opeyo Aloo. It also showed that the Defendant in the lower court Case No. 5 of 2019 Maseno was Ramjus Opeyo Aloo.
7. However, perusal of the lower court proceedings contained in the record of appeal however shows that there was substitution of the deceased vide court order dated 23/8/2022 entered by consent. The order allowed the application for substitution. It is possible the pleadings were not subsequently amended to reflect the substitution so the name of Ramjus Opeyo Aloo deceased remained in the proceedings as the Defendant.
8. The lower court proceedings further show that the substitution was done on the basis of a limited grant of Letters of Administration ad Litem issued to the applicant limited for purposes only of filing suit. This kind of grant does not confer any proprietary rights over the suit land upon the applicant.
9. As there had been substitution of the deceased Defendant with the Applicant herein, the application to replace the deceased's name with that of applicant in the judgement of this court dated 22/2/2024 is hereby allowed for purposes of the suit and this appeal only. No order as to costs.

Orders accordingly.

RULING, DATED AND SIGNED AT KISUMU, READ VIRTUALLY THIS 20TH DAY OF FEBRUARY, 2025 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Maureen- Court Assistant.

Applicant present in person.

Opar for the Appellants.

