



Njenga & another (Suing as the Administrators of the Estate of Peter Njenga Kinyanjui) v Wanjiru & another (Environment and Land Miscellaneous Application E033 of 2022) [2024] KEELC 13620 (KLR) (5 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13620 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E033 OF 2022
LN MBUGUA, J
DECEMBER 5, 2024**

BETWEEN

**DAVID KARANJA NJENGA 1ST APPLICANT
JAMES NJENGA KINYANJUI 2ND APPLICANT
SUIING AS THE ADMINISTRATORS OF THE ESTATE OF PETER NJENGA
KINYANJUI**

AND

**MARGARET WANJIRU 1ST RESPONDENT
EUNICE WANGARI 2ND RESPONDENT**

RULING

1. This matter was commenced vide originating summons dated 21.2.2022. The applicants were seeking an eviction order against the respondents from the property known as Land Title No. Dagoretti/Kangemi/81. The matter was concluded by way of a mediation settlement agreement dated 18.4.2023 of which the respondents undertook to vacate the suit property within 6 months effective from 1.5.2023.
2. While the mediation agreement dated 18.4.2023 was adopted as the decree of this court, it is vehemently contested by the respondents as per their grounds of opposition dated 4.11. 2024. Be that as it may, it appears that the Respondents did not vacate the suit land and as a consequence, the applicants filed a Notice of Motion application dated 25.9.2024 seeking to evict them with the assistance of the officer commanding Spring Valley Police station.
3. On 4.11.2024, the said application was coming up for hearing when the court was informed by counsel for the respondents that both applicants had passed on, thus there was need to substitute them.



4. On the same day, the court directed parties to file requisite documents to confirm the said deaths within 3 days. By 25.11.2024, counsel for the applicants whose clients are said to have died had filed nothing.
5. On their part, the respondents filed a funeral programme of David Karanja Njenga indicating that he passed away on 2.4.2024 and as averred by the 2nd respondent in her replying affidavit sworn on 4.11.2024, James Njenga Kinyanjui also passed on in September 2022.
6. After considering the circumstance of this case, I find that this court should not entertain the application dated 25.9.2024 filed by the applicants who were apparently all deceased at the time of filing the same without first substituting them with representatives of their estates as required by the provisions of Order 24 of the Civil Procedure Rules. In any case, if they are alive, nothing could have been easier than the two to swear affidavits to that effect. Matters of death are grave and should be handled with the seriousness they deserve.
7. That being the case, neither the application of 25.9.2024 by the applicants, nor the application of 4.11.2024 by the respondent (to set aside the mediation agreement) can be argued as at now Unless there is substitution of the parties who are deceased.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5th DAY OF DECEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Amadi for Applicants

Amuga for Respondents

Court Assistant: Vena

