



**M’ikiunga v M’Aruja (Environment & Land Case 125 of 2006)
[2023] KEELC 41 (KLR) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 41 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE 125 OF 2006
CK NZILI, J
JANUARY 18, 2023**

BETWEEN

ANDRIANO MUNYUA M’IKIUNGA PLAINTIFF

AND

FRANCIS GITUMA M’ARUJA DEFENDANT

RULING

1. The application dated October 31, 2022 has been brought by Lucy Kioro Munyua the applicant seeking to substitute the deceased plaintiff who passed on July 16, 2022 obtained letters of administration *ad litem* on October 5, 2022 and for purposes of execution the decree has to be amended to reflect the changes. Attached to her supporting affidavit is the certificate of death and a copy of the letters of administration marked as annexures LKM “1” and “2” respectively.
2. The application has been served upon the defendant who has not filed any response.
3. Section 37 (1) of the *Civil Procedure Act* allows for a substitution of a deceased decree holder or debtor with a legal representative for purposes of execution.
4. In *Bakari Ibrahim vs Issa Ibrahim* (2016) eKLR, the Court of Appeal held that Order 24 Rules 3, 4, 6, 7 and 10 *Civil Procedure Rules* do not apply to proceedings in execution of a decree or order and that a party must comply with Section 37 of the *Civil Procedure Act*, otherwise the execution process would be unlawful.
5. There is no dispute that a decree of this court was issued in favour of the deceased on May 21, 2021. In order for it to be effective, there is obviously need to amend it to reflect the proposed changes.
6. Consequently, I allow for its amendment to reflect the applicant as the decree holder in place of the deceased. There will be no orders as to costs.



**DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 18TH DAY
OF JANUARY, 2023**

HON. C.K. NZILI

ELC JUDGE

In presence of:

C/A: Kananu

Miss Mukaburu for plaintiff/applicant

Miss Chepkoech for Kaumbi for respondents

