



**In re Estate of the Late Saulo Wepukhulu (Succession Cause  
271 of 2012) [2024] KEHC 10308 (KLR) (21 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 10308 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
SUCCESSION CAUSE 271 OF 2012  
RN NYAKUNDI, J  
AUGUST 21, 2024**

**IN THE MATTER OF THE ESTATE OF THE LATE SAULO WEPUKHULU**

**BETWEEN**

**GEORGE MUKONGOLO TAMBUSI, DOUGLAS KILUYI NYONGESA,  
TIMOTHY MUSE NANDASAVA, MOSES SIMIYU NANDASABA, ROGERS  
OMBAGO JOSHUA, PETER CHEMUYAYI, EMMANUEL JUMA, NZOIA D.E.B  
PRIMARY SCHOOL, JOSPHAT MWOMBE MAGWATA, JOEL WELAMONDI  
MAFINGA ..... PROPOSED INTERESTED PARTY**

**AND**

**PEPELA WEPUKHULU ..... 1<sup>ST</sup> PETITIONER  
WEPUKHULU MACHESO SIMON ..... 2<sup>ND</sup> PETITIONER**

**RULING**

1. The applicants approached this court vide a Chamber Summons dated 11<sup>th</sup> May 2023 seeking the following orders;
  1. Spent
  2. That the applicants herein be enjoined in these proceedings as interested parties.
  3. That the costs of this application be in the cause.
2. The application is premised on the grounds set out therein and the contents of the supporting affidavit sworn by Douglas Kiluyi Nyongesa, authorised by the other applicants.
3. The deponent urged that the applicants are the bonafide purchasers for value of the property known as LR No. North Kabras/Luandeti/1549 by way of purchase. He annexed the sale agreements to the affidavit. He stated that the applicants stand to suffer irreparably if they are not accorded an



opportunity to be heard and further, that they have had the physical possession of the land from the time of purchase without an interruption. The applicant urged the court to allow the application as prayed.

4. The respondents did not file any response to the application.

#### **Analysis & Determination**

5. Upon considering the application, the following issues arise for determination;
  - i. Whether the applicants should be included as interested parties

#### **Whether the applicants should be included as interested parties**

6. An interested party was defined in the case of *Trusted Society of Human Rights Alliance v. Mumo Matemu & 5 Others*, Supreme Court Petition No. 12 of 2013, [2014] eKLR (an application by the Law Society of Kenya) where the court observed that;

“(18) Consequently, an interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”

7. Before I delve into the merits of the application, I must point out that the proper procedure that the applicants should have followed, is an affidavit of protest seeking to be included as beneficiaries to the estate of the deceased. That notwithstanding, as they have approached the court vide the present application, I shall put their application to the test and make an apt determination.
8. The applicants have annexed a bundle of sale agreements as evidence that they purchased portions of the land parcel known as LR North Kabras/Luandeti/1549 from the deceased. They also produced evidence that they have structure built on the land by way of photographs.
9. It is my considered view that the applicants may have a stake in the estate of the deceased as purchasers for value. However, as I grant orders to have them enjoined as parties in the cause, it is not a validation of their claim on the estate. It is to grant them an opportunity to be heard as per the provisions of Article 50 of the *constitution*.
10. In the premises, the application succeeds to the extent that the applicants are hereby enjoined in the cause as interested parties.
11. It is so ordered.

**DATED SIGNED AND DELIVERED VIA EMAIL AT ELDORET ON THIS 21<sup>ST</sup> DAY OF AUGUST 2024.**

.....

**R. NYAKUNDI**

**JUDGE**

