



REPUBLIC OF KENYA



**Kanja & another (Suing as the personal representatives of Martin Kamau Kanja - Deceased)
v Wanjohi & another; Karanja & 3 others (Intended Interested Party) (Environment
and Land Appeal E021 of 2023) [2025] KEELC 1369 (KLR) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1369 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND APPEAL E021 OF 2023
LC KOMINGOI, J
MARCH 20, 2025**

BETWEEN

**MARY WANDIA KANJA 1ST APPELLANT
HANNAH NYOKABI KANJA 2ND APPELLANT
SUING AS THE PERSONAL REPRESENTATIVES OF MARTIN KAMAU
KANJA - DECEASED**

AND

**PATRICK WANJOHI 1ST RESPONDENT
JUALIA WANJIRU WANJOHI 2ND RESPONDENT**

AND

**PETER KUNGU KARANJA INTENDED INTERESTED PARTY
MAUREEN NJERI NJAU INTENDED INTERESTED PARTY
MERCY WAMBUI NJAU INTENDED INTERESTED PARTY
FRANCIS MUGO NDUNGU INTENDED INTERESTED PARTY**

*(Being an appeal against the Judgement of Hon. Pamela Achieng' issued on 9th November
2023 in the Senior Principal Magistrate's Court at Ngong in ELC Case No.E015/2021)*

RULING

1. This is the Notice of Motion dated 23rd October 2025, brought under;

(Pursuant to section 1A, 1B & 3A of the [Civil Procedure Act](#) 2012, order 1 rules 10(2) and 24 of the [Civil Procedure Rules](#), Section 65,68,69, 78A 106 A-E of the [Evidence Act](#), Cap



80, Section 24, 25 & 26 of the Land Registration Act, 2012, Articles 35, 40, 50 & 68 of the Constitution of Kenya 2010, Rule 2 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, and all other enabling provisions of the law)

2. It seeks orders;
 - i. Spent.
 - ii. That this Honourable Court be pleased to make a declaration for joinder of the Applicants as Interested Parties.
 - iii. That pending the hearing and determination of this application and the appeal this Honourable Court be pleased to grant a stay of execution of the Trial Court's Orders issued on 9th November, 2023 and temporary preservative orders against land registration number Ngong/Ngong/63911 and its consequent subdivisions known as registration numbers Ngong/Ngong/100286 (0.05HA), Ngong/Ngong/ 103291 (0.045HA) and Ngong/Ngong/94027(0.05HA).
 - iv. That this being a first appeal, the proposed interested parties' evidence be admissible to enable their joinder as such.
 - v. That costs of this suit be borne by the Respondent/Defendant.
3. The grounds are on the face of the Application and are set out in paragraphs 1 to 19.
4. The Application is supported by the Affidavit of Francis Mugo Ndungu, the 4th Interested Party/Applicant, sworn on the 15th October 2024.
5. The Application is opposed.

There is a Replying Affidavit sworn by Julia Wanjiru Wanjohi, one of the Respondents on the 10th November 2024. The Appellants intimated to the court that they did not wish to oppose the Application.
6. The Noticed of Motion was canvassed by written submissions.
7. I have considered the Notice of Motion, the Affidavit in support, the response thereto, the rival submissions and the authorities cited. The issue for determination is whether the Intended Interested parties ought to be enjoined in this Appeal.
8. Order 1 rule 10 (2) of the Civil Procedure Rule provides that;

“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

The Supreme Court of Kenya in the case of Communications Commission of Kenya & 4 Others Vs. Royal Media Services Limited & 7 Others (2014) eKLR held thus;

“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. Similarly, in the case of *Meme Vs. Republic* (2004) 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:

- i. Joinder of a person because his presence will result in the complete settlement of all the question involved in the proceedings.
- ii. Joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;
- iii. Joinder to prevent a likely course of proliferated litigation.

We ask ourselves the following questions:

- a. What is the intended party's state and relevance in the proceedings and
- b. Will the intended interested party suffer any prejudice if denied joinder.?"

The above definition has the same import and content as the definition in the [Supreme Court Act, Act No. 7 of 2011](#) and the Rules made thereunder. Section 23 of the Act provides that:

1. Any person entitled to join as a party or liable to be joined as a party in any proceedings before the Court may, on notice to all parties, at any stage of the proceedings, apply for leave to intervene as a party.
2. An application under this Rule shall contain information on-
 - a. The identity of the person interested in the proceedings:
 - b. A description of that person's interest in the proceeding:
 - c. Any prejudice that the person interested in the proceeding would suffer if the intervention were denied: and
 - d. The grounds or submissions to be advanced by the person interested in the proceeding, their relevance to the proceeding and the reasons for believing that the submissions will be useful to the Court and different from those of the other parties."

9. I have gone through the Supporting Affidavit and it is not clear when the Intended Interested Parties became aware of the dispute. I have also gone through the averments in the said supporting affidavit and with due respect it appears to the court that they have taken over the Appellants' case. The Trial court held that the transfer of the suit property to the 1st Appellant and subsequent sub-division and sale to third parties was illegal and should be cancelled.

10. This is the gist of this Appeal. How will the Intended Interested Parties assist the court to settle all questions arising in the suit?.

They ought to have sought to be enjoined in the suit in the Trial court.

11. I find that the Application is merely intended to delay this Appeal.

12. I find no merit in this application and the same is dismissed with costs to the Respondents.



DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 20TH DAY OF MARCH 2025.

L. KOMINGOI

JUDGE.

In The Presence Of:

Ms. Wambui for the Appellant.

Mr. Nabende for the Respondents.

N/A for the Interested Parties.

Court Assistant – Mutisya.

