



Tamei & 416 others v Kayie & 9 others (Environment & Land Case 99 of 2019) [2023] KEELC 18428 (KLR) (29 June 2023) (Ruling)

Neutral citation: [2023] KEELC 18428 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 99 OF 2019
LC KOMINGOI, J
JUNE 29, 2023**

BETWEEN

JOHN LEMARPE TAMEI & 416 OTHERS PLAINTIFF

AND

MAIMPI KAYIE & 9 OTHERS DEFENDANT

RULING

1. This is the Notice of Motion dated March 29, 2022 brought under;

(Pursuant to Order 1 Rule 10 (2), Order 1 Rule 25 of the [Civil Procedure Rules, 2010](#) and Sections 1A, 1B and 3A of the [Civil Procedure Act](#))
2. It seeks Orders;
 - 1) That the Honourable Court be pleased to order that Geoflex Consultants Limited be joined to these proceedings as an Interested Party.
 - 2) That the Honourable Court be pleased to grant any further Orders or issue any other directions as may be necessary to enable Geoflex Consultants Limited to canvass its interests in the suit.
 - 3) That the cost of the Application be in the cause.
3. The grounds are on the face of the Application and are set out in paragraphs a to f.
4. The Application is supported by the affidavit sworn by Charles Okoth Ameso Angira, Managing Director of the Intended Interested Party on the March 29, 2022.
5. The Application is opposed.

There is a Replying Affidavit sworn by John Lemarpe Tamei, the 1st Plaintiff, on the April 14, 2022.



6. On the April 24, 2023 the parties intimated to the court that they will be relying entirely on their respective affidavits.
 7. I have considered the Notice of Motion, the affidavit in support and the response thereto. The issue for determination whether this application is merited.
 8. The Intended Interested Party, Geoflex Consultants Limited claims to have been contracted to undertake the Planning, Survey and Registration works on the subject matter of the suit.
 9. It further claims that the proceedings and/or outcome of the suit herein are likely to profoundly impact on the performance of the contract and/or prejudice its contractual rights.
 10. The plaintiffs on the other hand maintain that the Intended Interested Party does not have any identifiable stake in this matter hence it will not be prejudiced in any way if they are not joined in these proceedings.
 11. Order 1 Rule 10 (2) of the [Civil Procedure rules](#) 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”.
 12. The [Black’s Law Dictionary](#), 8th Edition defines an Interested Party as;

“a party who has a recognizable stake and therefore a standing in the matter”.
 13. In the case of [Francis Kariuki Muruatetu & Another vs. Republic & 5 Others the court referred to the case of Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others](#) (2014)eKLR defined an Interested Party as;

“..... one who has a stake in the proceedings though he or she was not a 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.....”
 14. Similarly in the case of [Methodist Church in Kenya v Mohammed Fugicha & 3 Others](#) (2019)eKLR the Court stated thus;

“Therefore every case; whether some parties are enjoined as Interested Parties or not, the issues to be determined by the court will always remain issues as presented by the Principal Parties, or as framed by the court from the pleadings and submissions of the Principal Parties. An Interested Party may not frame issues or introduce new issues for the determination by the Court”.
 15. I am guided by the above authorities in finding that the Intended Interested Party/Applicant is not a necessary party in these proceedings.
 16. It has no recognizable stake in the subject matter of these proceedings.
- It was contracted by the 10th defendant to undertake the planning and survey works.



17. It's role is limited to the contract between itself and the 10th Defendant.

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

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 29TH DAY OF JUNE 2023.

L. KOMINGOI

JUDGE.

IN THE PRESENCE OF:

Mr. Solinka for the Plaintiffs.

N/A for the Defendants (Aware).

Mr. B. Otieno for the Intended Interested Parties.

Court Assistant - Mutisya

