



**Beck & another v Passin & 4 others (Land Case E009 of 2024)
[2025] KEELC 1334 (KLR) (19 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1334 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
LAND CASE E009 OF 2024
LN MBUGUA, J
MARCH 19, 2025**

BETWEEN

DANIEL MORGAN BECK 1ST PLAINTIFF

WINDOW SCREENING LIMITED 2ND PLAINTIFF

AND

JAMES CHRISTOPHER PASSIN 1ST DEFENDANT

ROBERT KABATA KIBUCHI 2ND DEFENDANT

STEPHEN PAUL MORRIS 3RD DEFENDANT

DARK ASPEN INTERNATIONAL COMPANY LIMITED 4TH DEFENDANT

THE CHIEF REGISTRAR, LAIKIPIA LAND REGISTRY 5TH DEFENDANT

RULING

1. Before me is the 5th defendants' (The Land Registrar Laikipia) application dated 7.8.2024 seeking orders to strike out the suit as against her. The application is premised on the grounds set out on the face of the application and on the supporting affidavit of Pamela Mutegi, the Land Registrar Laikipia. She avers that plaintiff's claim as set out at paragraph 7-19 of the plaint is that he was defrauded of his property through misrepresentation made by the 1st, 2nd and 3rd defendants, adding that the 5th defendant was not a party to the said misrepresentation. Thus the suit against the applicant lacks merits.
2. In opposition thereof, the plaintiffs filed grounds of opposition and a replying affidavit dated 8.10.2024 contending that the affidavit in support of the application was not sworn before a commissioner of oaths hence, the application is defective. They also aver that fraud has been imputed as against all the defendants whereby the 5th defendant was instrumental in the registration of the suit property hence her presence in these proceedings is indispensable.



3. On 5.11.2024, the court gave directions for the parties to file and serve submissions on the application, but only the applicant complied with the said directions.
4. I have considered the arguments proffered herein including the submissions of the applicant. It is trite law that issues for determination in a suit generally flow from the pleadings, See *Galaxy Paints Company Ltd v Falcon Guards Ltd* (2000) Eklr. A perusal of the plaint does not reveal any claims of fraud or misrepresentation against the 5th defendant. However, in so far as there are orders sought against the said 5th defendant in the final prayers, then the said party becomes a necessary party even if their mandate only relates to registration of land.
5. To this end, I find that the application is not merited, the same is hereby dismissed with no orders as to costs. Parties are hereby encouraged to focus on the main trial so as to have a speedy dispensation of the substantive issues in dispute.

**DATED, SIGNED AND DELIVERED AT NANYUKI THIS 19TH DAY OF MARCH 2025
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:

Wacuka holding brief for Hillary Wamunoro for Plaintiffs

M/S Mitui holding brief for M/S Ngui for 1st – 4th Defendants

Nyambura holding brief for Mumbi Kiarie for 5th Respondent Defendant

