



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL SUIT NO.146 OF 2017

PARK TOWERS LIMITED.....PLAINTIFF/RESPONDENT

VERSUS

FRANCIS KIRUNGIE NGATIA.....1ST DEFENDANT/RESPONDENT

REGISTRAR OF COMPANIES.....2ND DEFENDANT/RESPONDENT

AND

SAMUEL DOMINIC MUATHE.....INTENDED INTERESTED PARTY/APPLICANT

RULING

1. Before me is a chamber summon dated 19th February 2018. It is filed by Samuel Dominic Muathe (Muathe), the intended interested party. Muathe prays, by that application, he be joined as interested party in this case.
2. In this case the plaintiff **PARK TOWERS LIMITED** (hereinafter the company) seeks a declaration that the 1st defendant, Francis Kirungie Ngatia (Ngatia) is not its director.
3. Now, Muathe by his affidavit in support of the application gave a back ground of the formation of the company. He alleged he is the founder of the company. That he invited two people, who were employees of Ngatia to be “proxy directors” of the company. He alleged that Ngatia made documents and coerced the other directors to execute certain papers which enabled Ngatia to allocate himself shares of the company. Muathe alleged that the Registrar of Companies revoked CR12, in November 2016, which cancelled Muathe’s directorship of the company. Muathe seeks leave to be joined as an interested party to enable him respond to the documents filed in this case.
4. I have considered the parties submission and affidavit evidence. As of now Muathe is neither a director or share holder of the company. He has no claim against the company or against Ngatia. On the whole I find that Muathe has failed to clearly indicate what prejudice he will suffer if he is not joined in this action. At best Muathe can offer himself as a witness for any of the parties in this case but there is no basis of allowing him to join these proceedings as a party.
5. Accordingly the chamber summons dated 19th February is dismissed with no orders as to costs.
6. At the reading of this Ruling parties will be given a date for case management conference and a hearing date will be fixed.

DATED, SIGNED and DELIVERED at NAIROBI this 27th day of APRIL, 2020.

MARY KASANGO

JUDGE

ORDER

In view of the measures restricting court operations due to the **COVID-19 pandemic** and in light of the Gazette Notice No 3137 of 17th April 2020 and further parties having been notified of the virtual delivery of this decision, this decision is hereby virtually delivered this **27th** day of **April, 2020**.

MARY KASANGO

JUDGE