



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BUSIA**

**ENVIRONMENT AND LAND COURT**

**ELC NO. 58 OF 2015**

**ANN AUMA KHASEKE .....1<sup>ST</sup> APPLICANT**

**MOSES OKELLO KHASEKE .....2<sup>ND</sup> APPLICANT**

**CHARLES ODUNDO KHASEKE .....3<sup>RD</sup> APPLICANT**

**= VERSUS =**

**VINCENT KHASEKE .....1<sup>ST</sup> RESPONDENT**

**JOSEPH KHASEKE.....2<sup>ND</sup> RESPONDENT**

**FRANCIS MACKIDY KHASEKE ..... 3<sup>RD</sup> RESPONDENT**

**MARTIN KHASEKE.....4<sup>TH</sup> RESPONDENT**

**FREDRICK KHASEKE .....5<sup>TH</sup> RESPONDENT**

**= AND =**

**ALFRED KHASEKE.....1<sup>ST</sup> DEFENDANT**

**LINUS KHASEKE.....2<sup>ND</sup> DEFENDANT**

**EDWIN KHASEKE .....3<sup>RD</sup> DEFENDANT**

**RULING**

1. The application giving rise to this ruling is a Notice of Motion dated 11/1/2018 and filed in court on the same date. It is stated to be brought under Order 1 (3) of the Civil Procedure Rules and Section 3A of the Civil Procedure Act. The Applicants – **ANN AUMA KHASEKE, MOSES OKELLO KHASEKE** and **CHARLES ODUNDO KHASEKE** – are not yet parties to the suit but now want to be enjoined as interested parties (prayer b). The Applicants are apprehensive that the court may issue orders that might affect them yet they are not parties to the case.

2. The parties to the suit are **VINCENT KHASEKE, JOSEPH BARASA, FRANCIS MACKIDY KHASEKE, FREDRICK KHASEKE** and **MARTIN KHASEKE**, as Plaintiffs, while **ALFRED KHASEKE, LINUS ANGEDI** and **EDWIN OGINGA KHASEKE** are Defendants. It seems clear to me that this is essentially a family land feud. The Disputants are KHASEKEs and those seeking to be enjoined are KHASEKEs too. They are apprehensive that orders affecting them may be made. I understand their fears. If they were not KHASEKE's, I would perhaps not readily understand why they want to join the suit. But they seem to be members of the larger KHASEKE's family. The parcels of land in dispute are subdivisions of one original whole – said to be parcel No. 63 – which was subdivided in a manner that seems to have left some dissatisfied.

3. Having looked at the application, the response made, and the rival submissions, I am convinced that the interests of justice are better served by allowing the Applicants to join as parties. That way, a more inclusive judgement will be rendered. Locking the proposed interested parties out of the suit may likely give rise to yet another suit involving the parcels of land in dispute.

4. With all this in mind, and noting that this matter itself is a consolidation of suits, and further realising that there is need to forestall proliferation of suits around the same subject matter, I allow the application in terms of prayer (b). The Applicants should therefore be enjoined as interested parties. There will be no order as to costs.

**Dated, signed and delivered at Busia this 29<sup>th</sup> day of July 2019.**

**A. K. KANIARU**

**JUDGE**

**In the Presence of:**

Applicants: Present

Respondents: Present

Defendants: Present

Counsel for the Applicants: Absent

Counsel for the Respondents: Present

Counsel for the Defendants: Present

Court Assistant: Nelson Odame