



Muriithi v Nduta & 3 others; N.T Express Launromatt Ltd (Intended Interested Party) (Environment & Land Case E380 of 2021) [2023] KEELC 20925 (KLR) (19 October 2023) (Ruling)

Neutral citation: [2023] KEELC 20925 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E380 OF 2021
LN MBUGUA, J
OCTOBER 19, 2023**

BETWEEN

DR. HUMPHREY MURIMI MURIITHI PLAINTIFF

AND

RACHAEL WANJIRU NDUITA 1ST DEFENDANT

MAYFAIR BANK LIMITED 2ND DEFENDANT

CHIEF LANDS REGISTRAR 3RD DEFENDANT

THE ATTORNEY GENERAL 4TH DEFENDANT

AND

N.T EXPRESS LAUNROMATT LTD INTENDED INTERESTED PARTY

RULING

1. Before me is an application dated 26.9.2023 brought forth by an Intended Interested party who is seeking leave to be joined and to participate in these proceedings as an interested party. They aver that they were guaranteed a loan by the 1st defendant who used his title Nairobi/Block 110/115 as security. That the applicant deposited the title with the 2nd defendant for a term loan of 10,460,000.
2. That the 2nd defendant accused the applicant of defaulting in loan repayment and proceeded to gazette the property for sale which gave rise to proceedings in Milimani HCCA No. E802 of 2021. The applicant contends that if the orders herein are not granted, the outcome thereof may not reconcile with the outcome in the aforementioned case.



3. The plaintiff opposed the application vide his replying affidavit dated 5.10.2023. He contends that the issue before this court is whether the 2nd defendant's title to the suit property is genuine, adding that any evidence which the applicant has can be adduced by the 2nd defendant.
4. I have duly considered the submissions of the applicant dated 9.10.2023 as well as those of the plaintiff dated 13.10.2023. The issue falling for determination is whether the applicants should be joined in these proceedings noting that the matter is scheduled for hearing on 26.10.2023.
5. The *Black's Law Dictionary* 9th Edition, page 1232 defines an interested party as;
“A party who has a recognizable stake (and therefore standing) in the matter”
6. Order 1 rule 10(2) of *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.”
7. I have taken into consideration that the applicant has cited ongoing proceedings in a case Milimani HCCA No. E802 of 2021 where the subject property is the same as in the current suit. They have further stated that the case was instituted because the 2nd defendant had gazetted the suit property for sale due to default of a loan by the applicant. That being the case it cannot be said that what the applicant needs to say before this court can be proffered by the 2nd defendant.
8. The court would be interested to know the nature and extent of the applicants involvement in the subject property and this can only be done if they are brought on board. To this end, the court allows the application but the costs thereof shall abide the outcome of the suit.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 19TH DAY OF OCTOBER, 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

