



**Oshumu v Ngeshian & 4 others; Ngeshian & 2 others (Plaintiffs to the Counterclaim);
Oshumu & 5 others (Defendant to the Counterclaim) (Environment & Land
Case E047 of 2021) [2025] KEELC 1198 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1198 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E047 OF 2021
LC KOMINGOI, J
MARCH 13, 2025**

BETWEEN

MOKOI OLE OSHUMU PLAINTIFF

AND

MATURA OLE NGESHIAN 1ST DEFENDANT

MASONE OSHUMU 2ND DEFENDANT

KESHIRA NGESHIAN OSHUMU 3RD DEFENDANT

DISTRICT LAND REGISTRAR KAJIADO 4TH DEFENDANT

THE HONORABLE ATTORNEY GENERAL 5TH DEFENDANT

AND

MATURA OLE NGESHIAN PLAINTIFF TO THE COUNTERCLAIM

MASONE OLE NGESHIAN OSHUMU . PLAINTIFF TO THE COUNTERCLAIM

KASHIRA NGESHIAN OSHUMU PLAINTIFF TO THE COUNTERCLAIM

AND

MOLOI OLE OSHUMU DEFENDANT TO THE COUNTERCLAIM

**IMARORO-MASHUURU GROUP RANCH DEFENDANT TO THE
COUNTERCLAIM**

**CHAIRMAN, IMARORO-MASHUURU GROUP RANCH DEFENDANT TO
THE COUNTERCLAIM**

**SECRETARY, IMARORO-MASHUURU GROUP RANCH DEFENDANT TO
THE COUNTERCLAIM**



**LAND REGISTRAR, KAJIADO DEFENDANT TO THE COUNTERCLAIM
THE HONOURABLE ATTORNEY GENERAL DEFENDANT TO THE
COUNTERCLAIM**

RULING

1. This is the Preliminary Objection dated 19th October 2023 by the 2nd to 4th Defendants (in the Counter claim).

The grounds are;

- i. The second, third and fourth Defendants to the counterclaim aver that they are wrongfully, unprocedurally and therefore illegally enjoined to this suit by dint of Order 1 of the Civil Procedure Rules.
 - ii. The Counterclaim as against the Third Defendant to the Counterclaim have no basis whatsoever and should be struck out with immediate effect.
2. On the 17th September 2024, the court with the consent of the parties directed that the Preliminary Objection be canvassed by way of written submissions.
 3. I have considered the Preliminary Objection, the grounds, the rival submissions and the authorities cited. The issue for determination is whether the Preliminary Objection is merited.
 4. I have gone through the pleadings. In their Counter claim the 1st to 3rd Defendants in the main suit and the plaintiffs (in the counter claim), allege that the 2nd defendant was responsible for the allocation of the suit properties while the 3rd and 4th Defendants were in charge of the affairs of the 2nd Defendant, including sub-division of the 2nd Defendant's lager parcel.
 5. Order 1 rule 3 of the Civil Procedure Rules provides that;

“All persons may be joined as defendants against whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly, severally or in the alternative, where, if separate suits were brought against such persons any common question of law or fact would arise.”

6. I find that the 2nd to 4th Defendants (in the Counterclaim) are critical parties to the issues raised on allocation of the suit properties. I rely on the case of *Andy Forwarders, Service Limited & Another Vs. Price Waterhouse Coopers Limited & Another* (2012) eKLR, where Musinga J (as he then was) held that;

“A person may be joined not because there is a cause of action against him but because that person's presence is necessary to enable the court effectually and completely adjudicate upon and settle all questions involved in the matter”.

7. I find no merit in the Preliminary Objection and the same is dismissed with costs to the Plaintiffs (in the Counterclaim)

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 13TH DAY OF MARCH
2025**

L.KOMINGOI



JUDGE

In the Presence of:

Mr. Nairi for the Plaintiff.

Mr. J. Nyasimi for the 1st to 3rd Defendants.

N/A for the 4th to 6th Defendants.

Court Assistant – Mutisya.

