



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL CASE NO. 257 OF 2016

KERICHO MUSLIM ASSOCIATION(Suing through its

secretary Mohammed Abdulahi Unshui).....PLAINTIFF/RESPONDENT

VERSUS

SUPREME COUNCIL OF KENYA MUSLIMS.....1ST DEFENDANT/RESPONDENT

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

AND

ABDULQADIR ABDUL AZIZ & 24 OTHERS....INTERESTED PARTIES /APPLICANTS

RULING

1. The application dated 19th October, 2016 seeks orders that the Applicants be granted leave to be enjoined as Interested Parties herein.
2. It is stated in the grounds and the affidavit in support of the application that the Applicants are members of Kericho Muslim Association (hereinafter Association). Their contention is that the suit herein was filed by persons who are masquerading as the officials of the Association and who lack the capacity to bring this suit on behalf of the Association. It is further averred that the information given to this court by the Plaintiff is not factually correct and is misleading.
3. The application is opposed by the Plaintiff. It is stated in the replying affidavit that the Applicants are the imposters. Referring to the Association's contested elections, the Plaintiff stated that the Supreme Council of Kenya Muslims (hereinafter Supkem) is not neutral in the matter. The Applicants were termed as busy bodies who are not necessary parties in the determination of the dispute herein.
4. The 1st Defendant did not file any response to the application while the 2nd Defendant is not opposed to the same.
5. The application was canvassed by way of written submissions which I have considered.
6. The genesis of the dispute herein revolves around the manner that the Applicant's contested elections were carried out and presided over. The Plaintiff whose suit is stated as filed through the secretary is dissatisfied with the involvement of Supkem in their elections. On the other hand, the Applicant's who are also members of the Plaintiff Association support Supkem's involvement in the election of the Association's officials. It is noteworthy that the rival factions support the election of different officials. The Applicants being members of the Association who are interested in the contested elections are therefore necessary parties in the determination of the dispute herein.
7. As provided Under Order 1 rule 10 (2) Civil Procedure Rules

“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.”

8. In determining whether to enjoin the Applicants herein, I am guided, *inter alia*, by the decision of the Supreme Court of Kenya in the case of **Communications Commission of Kenya & 30 others v Royals Media Services & 7 others** where it was ruled as follows:

“An interested party is one who has a stake in the proceedings, though he or she was not party to the cause *ab initio*. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause.”

9. It is clear that the Applicants herein have a stake in the Association’s elections and will be affected by the decision of the court in this matter. Consequently, I allow the application with costs in cause.

Dated, signed and delivered at Nairobi this 14th day of June, 2018

B. THURANIRA JADEN

JUDGE