



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
LAND & ENVIRONMENT CASE NO. 788 OF 2012

BAKARI MOHAMMED ABDULREHMAN.....PLAINTIFF

VERSUS

SADIK MUCHIKU IMAANA.....1ST DEFENDANT

SAMUEL MUROKI.....2ND DEFENDANT

RULING.

This Court has been moved by way of Chamber Summons under **Order 1 Rule 10(2), of the Civil Procedure Rules and Section 1A & 1B of the Civil Procedure Act**, for an Orders that one Samuel Muroki be enjoined in this suit as an interested party and for costs of the application.

The application was supported by the grounds on the face of the application and also by the annexed Affidavit of **Samuel Muroki**. The grounds for the application are that; the applicant will be directly affected by any Orders issued in this suit as he is a Tenant in occupation and running business in the said premises; that no prejudice will be occasioned on any party should the Orders sought be granted and it is in the interest of justice that the Orders sought should be granted.

The application was opposed and one **Bakari Mohammed Abdulrehman** deponed a Replying Affidavit in opposition to the said Chamber Summons. The Chamber Summons was canvassed through Written Submissions. I have carefully considered the Affidavits and the Written Submissions filed in Court in support of and in opposition of the said application. I have also considered the quoted law and the authorities cited herein.

The Court finds that, the sought Orders are discretionary in nature. The said Orders may be given at any stage of the proceedings. However, the basic consideration is whether, the presence of such a party may be necessary in order to enable the Court effectually and completely adjudicate upon and settle all questions involved.

Considering all the materials, arguments and documents before me, some of the issues canvassed raises triable issues where evidence has to be adduced on whether interested party is a Tenant or not. The said issues cannot be addressed at this stage.

I find that, in enjoining the 3rd party herein may not be prejudicial to the Plaintiff and the same is for the interest of justice. The Court finds that, the applicant has presented a request with sufficient facts to justify his inclusion or joinder in the suit herein as an interested party. The Court therefore, allows the

Chamber Summons dated 14/5/2013 as prayed.

The applicant is hereby enjoined in the suit as third party and is at liberty to file his Replying Affidavit within 14 days of today's Ruling.

Costs in the Cause.

Dated, Signed and delivered at Nairobi this 19TH of **July, 2013.**

L .N. GACHERU

JUDGE

In the Presence of:-

.....For the Plaintiff

.....For the Defendant/Applicant

Anne: Court Clerk

L .N. GACHERU

JUDGE