



**Mereu (Suing on behalf of the Estate of Cecilia Nalagit Mereu) v
Njenga; Kariuki (Intended Interested Party) (Environment & Land
Case 606 of 2017) [2022] KEELC 2767 (KLR) (30 June 2022) (Ruling)**

Neutral citation: [2022] KEELC 2767 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 606 OF 2017**

MN GICHERU, J

JUNE 30, 2022

BETWEEN

**MICHAEL KOIKAI MEREU (SUING ON BEHALF OF THE ESTATE OF
CECILIA NALAGIT MEREU) PLAINTIFF**

AND

JOYCE MUKUHI NJENGA DEFENDANT

AND

MARGARET WANJIRU KARIUKI INTENDED INTERESTED PARTY

RULING

1. This ruling is on the Notice of Motion dated 1/2/2022. The said Motion which is under Sections 1A, 3A and 63(e) of the [Civil Procedure Act](#), Order 40 Rules 1 and 4, Order 51 Rules 1 and 3 [Civil Procedure Rules](#) and all other enabling provisions of Law seeks to have the applicant Margaret Wanjiru Kariuki join this suit as an interested party.

The grounds for seeking to join the suit are that the Applicant has a purchaser's interest in the suit land because she signed a sale agreement with the Defendant for the purchase of the suit land.

She has also learnt that the Plaintiff has cautioned the land and no transaction can take place until this suit is concluded. She concludes by saying that she stands to suffer irreparable loss that cannot be adequately compensated by an award of damages.

In addition to the grounds, the Applicant has sworn a supporting affidavit in which she says that paid Kshs. 2 Million to the Defendant and all that remained was Kshs. 1 Million for the transaction to be complete.



2. The application is opposed by the Plaintiff who has sworn a replying affidavit in which he says that the Applicant is a stranger to him and since she has no privity of contract with him, she should file her own suit against the Defendant because he too is aggrieved by the Defendant.

3. Counsel for the parties filed written submissions on 27th and 31st May, 2022.

The only issue for determination is whether the Applicant has made out a good case for joining the suit.

4. I have carefully considered the application in its entirety including the affidavits and the submissions. I have also considered the provisions of Order 1 Rule 1 *Civil Procedure Rules* as to joinder of Plaintiffs.

I find that what the Applicant seeks is to join the suit on the side of the Plaintiff so that both may pursue their claims simultaneously.

I find that the joinder of the Applicant will delay this suit which has been pending since the year 2017. The Applicant has not proved that this is the only forum through which she can seek redress.

She can file her own suit independently of the Plaintiffs and still get what she wants if she is able to prove her case to the required standard.

I have not seen the irreparable loss that the Applicant will suffer. I have not seen her agreement with the Defendant. I have not seen evidence of any money paid to the Defendant. I have not seen any evidence of occupation of the suit land.

The Applicant has not explained where she has been since the plaintiff filed this suit.

For the above reasons, I direct that the Applicant files her own suit. I do so under Order 1 Rule 2 *Civil Procedure Rules*.

Consequently, I dismiss the application dated 1st February, 2022. No order as to costs.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 30TH DAY OF JUNE, 2022.

M.N. GICHERU

JUDGE

