



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

ELC CASE NO. 138 OF 2010

FLORENCE MUTHONI NJAU (Suing as the Attorney for & on behalf of

JOHN MBURU KARANJA APPLICANT

VERSUS

SAMUEL WANJOHI WAHOME 1ST DEFENANT

MICHAEL WAWERU MBUGUA 2ND DEFENANT

ANASTASIA KIMEU MUTHIKE..... 3RD DEFENANT

CONTINENTAL DEVELOPERS LTDINTERESTED PARTY

RULING

This is an application by way of Chamber Summons under Order 1 Rules 10 (2), (4) and 13 of the Civil Procedure Rules and section 3 A of the Civil Procedure Act that this court be pleased to grant leave to join and/or add M/s Continental Developers Limited as a necessary party to this suit. The grounds in support of the said order are set out on the face of the application which however are in the form of evidence belonging to the main trial and which therefore, I do not deem necessary to set out in this ruling. There is in support of the application an affidavit sworn by Florence Muthoni Njau who is the plaintiff herein.

The respondents were served with the application but it is only the intended interested party who filed a reply. As at the time of preparing this ruling the plaintiffs and the interested party had filed written submissions to address the application in question. I have noted that M/s Continental Developers Limited are resisting the joinder sought by the plaintiff.

However, the chronology of events in respect of acquisition of the property known as LR No. NAIROBI/BLOCK 82/1910 leading to the plaintiff’s interest shows that M/s Continental Developers Limited are a central player. The resolution of any dispute between the plaintiff and the defendants cannot be addressed without the inclusion of the party sought to be joined who in fact still holds the Original Title documents in respect of the suit property. I also observe that no prejudice has been alleged will visit M/s Continental Developers Limited if they are joined as a party in these proceedings. Accordingly, the application dated 8th November, 2010 is hereby allowed and M/s Continental Developers Limited shall become the 4th defendant herein. If it is necessary to amend the plaint, leave is hereby granted and all pleadings shall be served upon the said party within 14 days of this ruling. The costs shall be in the cause.

Orders accordingly.

Dated, signed and delivered at Nairobi this 29th day of July, 2011.

A. MBOGHOLI MSAGHA
JUDGE