



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MILIMANI LAW COURTS**

**ENVIRONMENTAL & LAND CASE 1784 OF 2007**

**HENRY ORYEM OKELLO.....1<sup>ST</sup> PLAINTIFF**

**ERISANWERO OPIRA .....2<sup>ND</sup> DEFENDANT**

**V E R S U S**

**SUKHDEB SINGH LALY .....DEFENDANT**

**LAZARUS KIBUI NDEGWA .....APPLICANT**

**RULING**

The court has been moved by way of Chamber Summons under Order 1 rule 10(2) for an order that one Lazarus Kibui Ndegwa be joined or added as a party in the name of a defendant in this suit.

I have considered the affidavits and submissions placed before me in support of and in opposition to the said application. I have also addressed the authorities cited by counsel.

The order sought is discretionary. It may be given at any stage of the proceedings. The basic consideration is that 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 in the suit.

Going by the material before me, some of the matters canvassed border on triable issues where evidence has to be adduced and, to address the same at this stage may be prejudicial to the parties. Suffice to say that the Applicant has presented a plea sufficient to justify his inclusion herein as a defendant. I therefore allow the application as prayed in the Chamber Summons dated 18<sup>th</sup> June, 2008.

The Applicant is at liberty to file and serve a defence if need be within 14 days of today. Thereafter the parties shall appear in court for appropriate directions. It is so ordered. Costs in the cause.

***Dated, Signed and Delivered at Nairobi this 13<sup>th</sup> day of***

***October, 2009.***

**A. MBOGHOLI MSAGHA**

**JUDGE**