



REPUBLIC OF KENYA



KENYA LAW
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**Chemweno v Chepkonga & 5 others (Environment & Land Case
E001 of 2024) [2025] KEELC 4159 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 4159 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ITEN
ENVIRONMENT & LAND CASE E001 OF 2024**

**L WAITHAKA, J
MAY 30, 2025**

BETWEEN

JULIUS KAMELEI CHEMWENO PLAINTIFF

AND

CHARLES CHEPKONGA 1ST DEFENDANT

PHILIP YATOR 2ND DEFENDANT

KENNETH MURKOMEN 3RD DEFENDANT

JOSEPH RUTTO 4TH DEFENDANT

**BOARD OF MANAGEMENT SANGURUR PRIMARY SCHOOL 5TH
DEFENDANT**

HON ATTORNEY GENERAL 6TH DEFENDANT

RULING

1. This Ruling is in respect of the Chamber Summons application dated 29th April, 2025 brought under Sections 1A, 1B, 3, 3A and 63(e) of the *Civil Procedure Act* 2010 and Order 1 Rule 10 Civil Procedure Rules 2010 seeking the following prayers;
 - i. That the Board of Management Sangurur Primary School and the Hon. Attorney General be enjoined in these proceedings as 5th and 6th defendants respectively.
 - ii. That upon granting of prayer 1 herein above, the plaintiff be granted leave to amend the plaint to add the said parties as defendants.
 - iii. Costs of this application be provided for.
2. The application is anchored on the grounds: -



- a. That the intended defendants are necessary parties in resolving the issue in controversy.
 - b. That for the Court to solve the dispute of ownership, the intended defendants ought to be included.
 - c. That there are temporary classes that have been constructed on that parcel of land known as Sungurur/Sungurur/481.
 - d. That it is in the best interest of justice that this application be allowed.
3. The application is supported by the affidavit of Julius Kamelei Chemweno sworn on 29th April 2025 in which the grounds are reiterated. He avers that the defendants allege the land belongs to the proposed 5th defendant who is not a party to the suit and has erected temporary structures on the suit property and placed pupils therein.
 4. The application is not opposed.
 5. This court has considered the application, the affidavit in support and finds the sole issue for determination to be whether the application for joinder of the intended 5th and 6th defendants is merited.
 6. Joinder of parties is governed by Order 1 Rule 10 (2) of the Civil Procedure Rules which provides;

“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.”
 7. In law, the Court may at any stage of the proceedings either on application by a party or on its own motion add a party to a suit if such party is necessary for the determination of the issues in dispute or whose presence is necessary in order to enable the court to effectively and completely adjudicate upon and settle all questions involved in the suit.
 8. In the instant case, the board of management, Sungurur Primary School is alleged to have constructed structures on the suit property and placed pupils inside. If this is the position, then any orders issued by this court will affect the school who is not a party in the suit.
 9. For the court to effectively and completely adjudicate this matter, the 5th and 6th intended defendants are found to be necessary parties in this proceedings as sufficient interest has been proved to warrant joinder.
 10. Consequently, this court finds merit in the application and allows prayers 1 & 2 in the application.
 11. The plaintiff is directed to amend and serve the plaint in 14 days.
 12. Orders accordingly.

DATED, SIGNED AND DELIVERED AT ITEN THIS 30TH DAY OF MAY, 2025.

L. N. WAITHAKA.

JUDGE.

Ruling delivered virtually in the presence of;-



Mr. Mathai for the plaintiffs

Mr. Oyaro for the defendants

Court Assistant: Christine

