



Mwangombe & 8 others v Kenya Wildlife Services; Taita Hills and Salt Lick Wildlife Resort Limited (Applicant) (Environment & Land Case 106 of 2019) [2022] KEELC 13799 (KLR) (12 October 2022) (Ruling)

Neutral citation: [2022] KEELC 13799 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE 106 OF 2019**

M SILA, J

OCTOBER 12, 2022

BETWEEN

JOSEPHAT MVOI MWANGOMBE & 8 OTHERS PLAINTIFF

AND

KENYA WILDLIFE SERVICES DEFENDANT

AND

TAITA HILLS AND SALT LICK WILDLIFE RESORT LIMITED APPLICANT

RULING

1. This ruling is in respect of the application dated September 2, 2019 filed by three persons, namely Bernard Msawughi Nyange, Agnes Makio Mwashighadi, and Gabrael Fraji Mwikamba. They want to be added as 2nd, 3rd and 4th respondents on their own behalf and on behalf of Mngama Game Sanctuary. The application is supported by the affidavit of Bernard Msawughi Nyange and is opposed by the plaintiff.
2. The background is that through a plaint filed on June 17, 2019, the plaintiffs sued Kenya Wildlife Services (KWS) complaining that KWS was erecting an electric fence in their parcels of land identified as Taita Taveta/Mwachabo Scheme/973, 1113, 1159, 1111, and 111. They described themselves as being members of the Alia Community and that this was their ancestral land. The defence of KWS is that they were erecting the electric fence so as to forestall animal-wildlife conflict. They denied erecting the fence in the land of the plaintiffs. They contended that the fence was along Lualenyi Ranch and was to pass through Taita Hills/Salt Lick area (Taita Hills Wildlife Sanctuary) and Mngama Ridge, along their boundaries.
3. In this application, the applicants aver that as members of Mngama Game Sanctuary Community Based Organisation, they stand to be directly affected by any decree issued in this case on whether or



not the electric fence should stand. They also state that they have information and material which they wish to present to court to oppose the plaintiffs' suit.

4. The plaintiffs have opposed the motion through the replying affidavit of Herman Mwangemi Righa, the 5th plaintiff. He has deposed that the applicants are strangers to the suit and that they have not disclosed any interest or what they stand to lose or gain as they are not residents in occupation of any land affected. He avers that they have not given their title deeds so as to confirm their interest in the disputed land.
5. The defendant does not oppose the application.
6. I have considered the application alongside the submissions of Mr Munyithya, learned counsel for the applicants, and Mr Onkangi, learned counsel for the plaintiffs.
7. The dispute herein of course relates to an electric fence being erected along Lualenyi Ranch and Taita Hills Wildlife Sanctuary which land borders that of the Alia community. I have seen in the reply of the defendant that the boundary is to pass through Mngama Ridge. The applicants are members of Mngama Game Sanctuary CBO. I am persuaded that they stand to be affected by any decision that this court will make on the electric fence. They may also have important evidence to present on matters touching on the electric fence.
8. Although in the application the applicants wish to be joined as defendants, I am unable to join them to the suit as defendants, since the plaintiffs may not have any claim, nor do they appear to be seeking any order, against them. I will therefore order that they be joined only as interested party. They will however be at liberty to present evidence at the hearing of the suit.
9. I make no orders as to costs.
10. Orders accordingly.

DATED AND DELIVERED THIS 12TH DAY OF OCTOBER 2022

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

Delivered in the presence of:-

Mr Munyithya for the applicants.

Mr Onkangi for the plaintiffs.

Ms Lelu for the defendant.

Court Assistant – Wilson Rabong'o.

