



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAROK**

**ELC CAUSE NO. 245 OF 2017**

**FORMERLY NAKURU ELC NO. 318 OF 2011**

**ENDONYO KETE KUTO GROUP RANCH.....PLAINTIFF**

**VERSUS**

**MURIKEVEN OLOLMAITANY & 42 OTHERS.....DEFENDANTS**

**RULING**

By a Notice of Motion dated 1<sup>st</sup> April, 2019 the Applicant sought for orders that Kamongo Farmers Co-operation Society be enjoined as an interested party and the costs of the application be provided for. The Application is based on the grounds that the interested party has an interest in the suit as they purchased a parcel of land from the plaintiff in 1985 for a consideration of Kshs. 6,500,000 being land parcel Cis Mara/Ololulunga/132 measuring 874Ha and later obtained title to the land and have all the time been the registered owners of the said parcel of land. However, they are still unable to sub divide the suit land amongst its members. The application was also supported by the annexed affidavit of Joseph Karanja who is an official of the interested party.

The Application was opposed by the Defendant/Respondent by way of a replying affidavit sworn by Symon Kipkoros Marintai in which he deponed that he is the secretary of the plaintiff which had purchased land parcel Cis Mara/Ololulunga/120 and that the boarder parcel Cis Mara/Ololulunga/132 which parcels were sub divided and individual titles issued to those members. He further contended that the Defendants have had no dealings at all with the interested party and that there has never been any interference with beacons to the land as the applicant had vide Nairobi Misc. Case No. 431 of 2002. The applicants submitted that there was no dispute between the Defendants and Applicants.

I have considered the application before me the replying affidavit in opposition and the submissions which were filed by the parties. This is a matter which the proposed interested party seeks to be enjoined as interested party to the suit. It is now well settled that a party who wishes to be enjoined into any proceedings must be able to show an identifiable interest in the suit. In the instant case the interested party states that it had purchased a parcel land, paid the full consideration, taken possession but cannot sub divide and issue title to the member because of encroachment of the said land by the defendants.

From the above it is clear that the interested party has an indefinable interest in the land and that the outcome of the suit as between the plaintiff and the defendant will most likely have implications on the interested party. In the circumstances, I find that for this court to effectively and completely adjudicate on and settle the issue as between the parties in the affected parcels, the interested party herein be enjoined in the proceedings.

The upshot of the above is that the Notice of Motion dated 1<sup>st</sup> April, 2019 is merited and I accordingly allow the same.

Each party shall bear its costs.

**DATED, SIGNED and DELIVERED ONLINE on this 23<sup>RD</sup> day of FEBRUARY, 2021**

**Mohammed N. Kullow**

**Judge**

**23/2/2021**

In the presence of: -

CA: Chuma

Mr Kenani for the respondent

Mr Nanda for the plaintiff

Mr Waweru for the proposed interested party

**Mohammed N. Kullow**

**Judge**

**23/2/2021**