



**Koinet Limited & 3 others v Agricultural Finance Corporation; Christine Kioko & Company Advocates (Interested Party) (Environment & Land Case 96 of 2015) [2025] KEELC 370 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 370 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 96 OF 2015  
EO OBAGA, J  
FEBRUARY 6, 2025**

**BETWEEN**

**KOINET LIMITED ..... 1<sup>ST</sup> PLAINTIFF  
ELPHAS KIRWA KIMEGO ..... 2<sup>ND</sup> PLAINTIFF  
PERIS JEPKORIR SIRMA ..... 3<sup>RD</sup> PLAINTIFF  
ROSE JERUTO STANLEY ..... 4<sup>TH</sup> PLAINTIFF**

**AND**

**AGRICULTURAL FINANCE CORPORATION ..... DEFENDANT**

**AND**

**CHRISTINE KIOKO & COMPANY ADVOCATES ..... INTERESTED PARTY**

**RULING**

1. This is a ruling in respect of a Notice of Motion dated 6<sup>th</sup> February, 2024 in which the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Applicants seek the following orders:
  - i. Spent
  - ii. That the firm of Ms. Miyienda & Company advocates be given leave to come on record for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Plaintiffs/Applicants in place of Ms. Tororey & Company, Christine Kioko & Company, C. F. Otieno Company, Advocates.
  - iii. That the honourable court be pleased to review the orders made on 25<sup>th</sup> July, 2023 and dated 27<sup>th</sup> July, 2023 by ordering the title now held by Tororei & Company, Advcoates to be returned to court for onward transmission to the Company through its directions and/or 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Plaintiffs.



- iv. That after granting prayer No. 3 above, the file/suit can remain marked as closed.
  - v. Costs be borne by Ms. Tororei & Company, Advocates and his client.
2. The Applicants contend that the 1<sup>st</sup> Defendant is a company which was incorporated by their late father Herman Kimego Sirma. The company owned land comprised in LR. No. 9148 measuring 1283 acres. They state that they are the administrators of the estate of Herman Kimego Sirma and the company is one of the assets of their late father.
  3. They further argue that some two individuals namely Kiplimo Ngelechei Tiony and Paul Kipkemei Yator signed a company resolution giving the firm of Tororei & Company advocates authority to represent the company in court. They contend that the two are fraudsters who are out to grab the company property and that they are not directors. They state that they are the only directors of the company and that the title which was released to the firm of Tororei & Company advocates should be returned to court so that it can be handed over to them.
  4. The Applicants' application was opposed by the 1<sup>st</sup> Respondent company through a replying affidavit sworn on 19<sup>th</sup> February, 2024. The Respondent states that the Applicants' application is an abuse of the process of court in that it is being brought by persons who are not directors. The Respondent further states that the CR 12 which the Applicants have exhibited shows that the applicants have not been directors of the Company at any given time.
  5. The Respondent denies that it is out to disinherit the Applicants. The company shared out the land among its members and that directors of the Respondent are clearly shown in the CR 12 which even the Applicants have obtained. The Respondent states that the Applicants had no authority to file a suit against the Defendant as they have not exhibited any company resolution authorising them to do so.
  6. The Respondent also states that the Applicants' application is defective in that one cannot file for review when there is an appeal filed against the same ruling.
  7. The interested party filed an affidavit not in the sense that she was opposing the Applicants' application but because she wanted to clear her name by putting the record straight. The advocate had been called a masquerader with no instructions. She stated that she is an advocate of the High Court authorised to practice and that she had been given written instructions to act for the Applicants who had even paid her fees.
  8. I have considered the Applicants' application and the opposition to the same by the Respondent. The only issue for determination is whether the Applicants have demonstrated grounds for review of the court's orders of 25<sup>th</sup> July, 2023.
  9. The Plaintiffs had filed a suit against the Defendant in which they sought to compel the Defendant to release title to LR. No. 9148. On a number of occasions, the 2<sup>nd</sup> Plaintiff who is one of the Applicants' appeared in court seeking to have the title released to him on the ground that his father was a director of the 1<sup>st</sup> Plaintiff company. The court asked for evidence of the directors of the 1<sup>st</sup> Plaintiff but he could not produce any.
  10. Mr. Tororei of Tororei & Company Advocates filed an application seeking to come on record for the 1<sup>st</sup> Plaintiff. He was allowed to come on record and he thereafter withdrew the suit against the Defendant. The court then ordered that the title which had been deposited in court be released to the firm of Tororei & Company Advocates for onward transmission to the directors of the 1<sup>st</sup> Plaintiff. Mr. Tororei picked the title from court. This was because he had demonstrated to court through CR 12 that his clients were directors of the 1<sup>st</sup> Plaintiff company.



11. The Applicants are now claiming that they are the current directors of the 1<sup>st</sup> Plaintiff. They have not produced any CR 12 where they are shown to be directors of the company. One of the Applicants applied for a CR 12 which shows that she or her other co-applicants are not directors of the 1<sup>st</sup> Plaintiff. Infact what they have only annexed to their application is a form for company returns which is not a CR 12. If the Applicants are directors of the 1<sup>st</sup> Plaintiff as they claim nothing would have been easier than producing a CR 12 to confirm their position.
12. The Respondent has exhibited a CR 12 which shows the directors of the company. The Applicants are not among those listed as directors. There is therefore no basis upon which this court can review its orders of 25<sup>th</sup> July, 2023 in order to give the title to them. The Applicants have not even adduced a single document to show that their late father was a director of the 1<sup>st</sup> Plaintiff company. Save for prayer 2 which was not opposed, I find no merit in the other prayers which are dismissed with no orders as to costs.

It is so ordered.

**RULING READ, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MAKUENI THIS 6<sup>TH</sup> DAY OF FEBRUARY, 2025.**

**HON. E. O. OBAGA**

**JUDGE**

In the absence of parties who had been notified of the date of delivery of ruling.

Court assistant - Steve Musyoki

