



**Mirikau v Kikambala Housing Estate Limited & another; Bank of Africa  
Kenya Limited (Proposed Interested Party) (Environment & Land Case  
217 of 2018) [2025] KEELC 1097 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1097 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT & LAND CASE 217 OF 2018  
EK MAKORI, J  
MARCH 6, 2025**

**BETWEEN**

**WELLINGTON NAMAI MIRIKAU ..... PLAINTIFF**

**AND**

**KIKAMBALA HOUSING ESTATE LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**THE LAND REGISTRAR, KILIFI COUNTY ..... 2<sup>ND</sup> DEFENDANT**

**AND**

**BANK OF AFRICA KENYA LIMITED ..... PROPOSED INTERESTED PARTY**

**RULING**

1. Notice of Motion Application of the Proposed Interested Party dated 20<sup>th</sup> January, 2020 is brought under Order 1, Rule 10 (2) and Order 51, Rule 1 of the Civil Procedure Rules, Section 1A, 1B and 3A of the *Civil Procedure Act* and Section 19 (1) and (2) of the Environmental & Land Court Act, 2011 seeking the following orders:
  - a. Spent;
  - b. The Applicant be joined as an Interested Party in this Suit; and;
  - c. That Proposed Interested Party/Applicant be granted leave to file pleadings/responses in such manner as may be necessary and/or as shall be directed by this court.
2. The Application is supported by 8 (Eight) grounds annexed to it, together with Ben Mwaura's supporting affidavit, sworn on January 20, 2020.
3. The application was canvassed through partially written submissions and oral submissions.



4. I frame the single issue for determination as whether to admit the proposed interested party to these proceedings.

5. I have considered the submissions by the parties. Order 1, Rule 10 (2) of the Civil Procedure Rules, 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.”

6. This court acknowledges the significance of its past decisions, which are known to the parties. It has handled several matters arising from a series of similar transactions as this one and rendered decisions now pending before the Court of Appeal. The decisions are reported as *Kasinga & 22 others v Kikambala Housing Estate Limited & another; Bank of Africa Kenya Limited (Interested Party)* [2024] KEELC 5478 (KLR) and *Bank of Africa Limited v Kikambala Housing Estate Limited & another* [2024] KEELC 5685 (KLR).

7. This Court – Olola J. had ordered consolidation of several files in the Kasinga Case and the joinder of the proposed interested party. The Judge had also ordered that the said matters be heard simultaneously with the latter case, since, in the wisdom of the judge, the issues arising from the said matters were intertwined, so that the decision in one would affect the other. The final outcome of the two decisions delivered on the 18<sup>th</sup> of July 2024 came to support the thinking by my brother, judge.

8. Let me quote a passage from the Kasinga Case (supra) on joinder of the proposed interested party:

“The above matters were consolidated, with the lead file being *Malindi Environment & Land Court Number 207 of 2015, Amina Mohammed and 22 others versus Kikambala Housing Estate Limited, The Land Registrar, Kilifi County, and Bank of Africa Kenya Limited (Interested Party)*).

3. This Court (Oloa J.) ordered that the consolidated matters be heard simultaneously with Malindi, ELC. No. 355 of 2016—*Bank of Africa Limited v Kikambala Housing Estate Limited and another*, on 29<sup>th</sup> May 2017, as the orders emanating from this suit, will ultimately bind the suit mentioned above and vice versa.”

9. The parties, having fully participated in the hearing and knowing very well the outcome in those matters—with other series of matters left behind or inadvertently left out in the consolidation—cannot be heard to oppose the joinder of the interested party in this matter. The doctrine of estoppel sets in.

10. That being the case, the application for joinder is hereby allowed as prayed in the Motion Application dated 20<sup>th</sup> January 2020—costs in the cause.

11. It is so ordered.

**DATED, SIGNED, AND DELIVERED AT MALINDI VIRTUALLY ON THIS 6<sup>TH</sup> DAY OF MARCH 2025.**



**E. K. MAKORI**

**JUDGE**

In the Presence of:

Mr. Ananda, for the Plaintiff

Mr. Aziz representing the Defendant

Mr. McCourt (SC) for the Proposed Interested Party.

Happy: Court Assistant

