



**Kimathi & 2 others v Nyamu ( Being sued as the Legal Rep of the Estate of Simon Muriuki Karangi) (Enviromental and Land Originating Summons E015 of 2022) [2025] KEELC 3703 (KLR) (7 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3703 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E015 OF 2022**

**BM EBOSO, J**

**MAY 7, 2025**

**BETWEEN**

**FRANCIS KIMATHI ..... 1<sup>ST</sup> APPLICANT**

**JACOB MWENDA ..... 2<sup>ND</sup> APPLICANT**

**PETER NTURIBI ..... 3<sup>RD</sup> APPLICANT**

**AND**

**REAL NYAWIRA NYAMU ( BEING SUED AS THE LEGAL REP OF THE ESTATE OF SIMON MURIUKI KARANGI) ..... RESPONDENT**

**RULING**

1. The oral application by the plaintiffs has two limbs. The first limb is a plea for leave to further amend the originating summons to join National Bank of Kenya as a party to this case. The second limb is a plea for an adjournment. Both limbs of the application are opposed by the defendant.
2. The court has considered the oral application. The question to be answered in the oral plea for joinder of the Bank is whether the criteria for joinder has been satisfied. The court has looked at the official search dated 23/9/2022 which is one of the documents in the plaintiff's bundle. It reveals that the Bank registered a charge against the suit land way back on 2/7/1992. At this point, there is no evidence that the charge has been discharged.
3. Given the foregoing, with or without an application by any of the parties to this originating summons, the Bank is definitely a necessary party for the complete and effectual adjudication and settlement of all the questions that fall for determination in the originating summons. Through the originating summons, the plaintiff wants a nullification of the title which the Bank holds. The claim cannot be effectually disposed in the absence of the Bank. Even if the plaintiff failed to make the application for



joinder this court would be obliged to order joinder under Order 1 rule 10 (2) of the Civil Procedure Rules.

4. For the above reason, the court will allow joinder of the Bank as a 2nd defendant in the originating summons.
5. On the plea for adjournment, it logically follows that the Bank would have to be served and given an opportunity to file and serve pleadings. The court will, for the above reason, allow an adjournment.
6. On today's costs and costs of the oral application, it is clear that information relating to existence of the charge was within the knowledge of the plaintiffs at the time of filing this suit and has been in their knowledge since then. Clearly, the application has been brought late in the day after the court made an enquiry as to whether the charge had been discharged. For this reason, the plaintiffs will pay costs of the defendant's advocate for today's attendance at the adjourned hearing and for the oral application. The costs are hereby assessed at Kshs 15,000/= and shall be paid within 30 days from today.
7. The further amended originating summons shall be filed and served within 14 days from today. The matter shall be mentioned for fresh pre-trial on a date to be fixed.

**DATED, SIGNED AND DELIVERED ON THIS 7TH DAY OF MAY, 2025**

**B M EBOSO [MR]**

**JUDGE**

