



REPUBLIC OF KENYA



**Chumo & 2 others v Lelei; Koskei (Applicant) (Environment & Land
Case 63 of 2021) [2025] KEELC 4229 (KLR) (4 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4229 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND CASE 63 OF 2021
GMA ONGONDO, J
JUNE 4, 2025**

BETWEEN

JOSHUA KIPKEMEI CHUMO 1ST PLAINTIFF

WILSON CHUMO 2ND PLAINTIFF

DAVID CHUMO 3RD PLAINTIFF

AND

JAPHETH KIBIWOTT LELEI DEFENDANT

AND

IRINE CHEPKEMBOI KOSKEI APPLICANT

RULING

1. The instant ruling is in respect of an application by way of Notice of Motion dated 18th March 2025 and lodged herein on even date by one Irine Chepkemboi Koskei, who is acting in person, seeking the orders infra:
 - a. Spent
 - b. This Honourable Court be pleased to enjoin the Applicant to the instant suit as an Interested party.
 - c. Costs be provided for.
2. The application is based on five grounds which include:
 - a. The proposed Interested party is well known to Chumo's Family as the wife of the late Philip Kipkering Chumo (hereinafter referred to as Deceased-1) who is the brother to the plaintiffs.



- b. The proposed Interested party is therefore a necessary party to these proceedings because she lives on the suit land and her husband (Deceased-1) was buried in there.
 - c. That the Plaintiff shall suffer no prejudice should the orders sought be granted.
 - d. That the Application herein has been brought expeditiously without undue delay
3. Further, the application is anchored on the applicant's supporting affidavit of six paragraphs sworn on even date, alongside the annexed document marked as ICK 1 which is: a copy of the death certificate of Deceased-1. The applicant contends that Deceased-1 is a brother to the plaintiffs herein and he passed on before this matter could be concluded. That she resides on the suit land as the widow to the said Deceased-1, whose remains were interred on the suit land hence, is a necessary party to these proceedings.
 4. The defendant/respondent through Manani, Lilan, Mwetich and Company Advocates, opposed the application by way of a Replying Affidavit sworn on 1st April 2025. He averred that the applicant has no stake, legal interest or duty in the proceedings and will not be affected by the court's decision hence, should not be enjoined herein as an interested party. That the applicant is not a registered owner of the suit land.
 5. That furthermore, on 14th March 2024, this court directed the applicant to make an application for enjoinder to this suit within two months from that date but the applicant failed to comply with those directions. That therefore, the instant application is a delaying tactic by the plaintiffs and ought to be dismissed with costs.
 6. The applicant filed a Further Affidavit sworn on 26th May 2025 wherein she reiterated the averments in the Supporting Affidavit and stated that Deceased-1 was an active litigant in this suit thus, it is imperative that she be enjoined in this suit as an interested party so as to protect her interests as his widow and the interests of their children.
 7. The 1st, 2nd and 3rd plaintiffs did not oppose the application.
 8. Notably, none of the parties filed any submissions herein.
 9. I have considered the instant application and the response thereto and the issues that arise for determination are:
 - a. Whether the Application for joinder of an interested party is merited.
 - b. Just orders to issue herein.
 10. On the first issue, the Supreme Court of Kenya in *Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)* (Petition 15 & 16 of 2015 (Consolidated)) [2016] KESC 12 (KLR), outlined the requisite elements to being joined as an interested party to a suit and held that;

“(37) From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

One must move the Court by way of a formal application. Enjoinder is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:



- i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
 - ii. The prejudice to be suffered by the intended interested party in case of non-joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.
 - iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”
11. The applicant avers that she resides on the suit land, together with her children and will be affected by the outcome of this suit. That further, Deceased-1 was an active litigant in this suit hence, it is crucial that she be enjoined in this suit as an interested party so as to protect her interests as his widow and the interests of their children.
 12. Be that as it may, I note that the applicant intends to be enjoined as an interested party herein by virtue of being the widow of Deceased-1. However, she has not attached a grant of letters of administration to the estate of the said Deceased-1.
 13. In the case of *Alfred Njau v City Council of Nairobi* [1983] KLR 625, the Court of Appeal held *inter alia*:

“...*Locus standi*” literally means a place of standing and refers to the right to appear or be heard in Court or other proceedings and to say that a person has no *locus standi* means that he has no right to appear or be heard in such and such a proceeding.”
 14. It is settled law that a litigant is clothed with *locus standi* upon obtaining a limited or full grant of letters of administration in case of intestate succession; see [Rajesh Pranjivan Chudasama Sailesh Pranjivan Chudasama](#) (2014) eKLR.
 15. It is therefore, my considered view that the applicant lacks *locus standi* to prosecute this suit on behalf of the Estate of Deceased-1.
 16. In the circumstances, it is the finding of this court that the instant application originated by way of a Notice of Motion dated 18th March 2025 and lodged herein on even date is incompetent. The same is hereby struck out.
 17. Costs to be borne by the applicant.
 18. Orders accordingly.

DELIVERED, DATED AND SIGNED AT KAPSABET THIS 4TH DAY OF JUNE 2025.

G. M. A ONGONDO

JUDGE

Present



1. Ms. Jeruto, Learned Counsel for the defendant in main suit and the plaintiff in the counterclaim.
2. Walter, Court Assistant

