



Aristocars Limited & another v Galgallo & 5 others; Nyina (Intended Interested Party) (Environment and Land Case E174 of 2024) [2025] KEELC 6039 (KLR) (17 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6039 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E174 OF 2024
CA OCHIENG, J
SEPTEMBER 17, 2025**

BETWEEN

ARISTOCARS LIMITED 1ST PLAINTIFF

NAVINCHANDRA JAGJIVAN KHATRI 2ND PLAINTIFF

AND

WAKO ODHA GALGALLO 1ST DEFENDANT

AUGUSTINE ONDIEKI ANYEGAH 2ND DEFENDANT

CHIEF LANDS REGISTRAR CENTRAL REGISTRY, NAIROBI 3RD DEFENDANT

THE HON ATTORNEY GENERAL 4TH DEFENDANT

S SAMSON AKELO OUNO 5TH DEFENDANT

CHARLES KIPKIRUI NGETICH 6TH DEFENDANT

AND

PHILIP OPENJI NYINA INTENDED INTERESTED PARTY

RULING

1. What is before Court for determination is the intended Interested Party's Notice of Motion application dated 18th March 2025 where he seeks the following Orders:
 - a. Spent.
 - b. Spent.



- c. That the Honourable Court be pleased to enjoin the Intended Interested Party Phillip Openji Nyina as a party to this suit.
 - d. That following the grant of prayer no. (3) above, the Honourable Court be pleased to grant leave to the Intended Interested Party to file a response to the Suit herein in such a manner and form as the Court may direct.
 - e. That the court do issue such orders as may be necessary for the ends of justice and to effectuate the application herein.
 - f. That the costs of the Application be provided for.
2. The application is premised on grounds on its face and on the Intended Interested Party's supporting affidavit. He avers that he is a donee of a Power of Attorney donated by Jagjivan Karsandas Khatri, Shashikant Jagjivan Khatri and the 2nd Plaintiff in respect of LR. 18113/113 and Mansurali Madatali Jinani and Amina Mansurali Jinani in respect of LR. 18113/114 and that the said donors reside in India and are the registered proprietors of their respective properties, which are adjacent to each other.
 3. He claims that he has recently learnt that the Plaintiffs have lodged this suit against the Defendants claiming a proprietary interest in respect of the aforementioned properties. Further, that it is alleged in the suit that Samson Akelo Ouno was allocated the said properties in 1994 yet the said Mr. Ouno only interacted with the suit properties in 2023 when he consulted him seeking advice regarding the opening of a rates account at the Nairobi County in relation to the said suit properties. He claims that unknown to him, Mr. Ouno had hatched a nefarious scheme to fraudulently transfer the suit properties.
 4. He asserts that he holds the original title documents to the suit properties and in that regard, it is impossible to register a Transfer without them. He avers that in March of 2024 Mr. Ouno laid claim to the properties, of which a report was made to the Directorate of Criminal Investigations.
 5. He claims that the fraudulent transactions have occurred in relation to the suit properties both at the Ministry of Lands, Ardhi House Nairobi and at the Nairobi City County Offices including the issuance of fraudulent titles, which he needs to clarify by being enjoined in the suit. He also avers that the Respondents will not suffer any prejudice if the application is allowed, as his presence in the suit will enable the court to effectually and completely determine the issues relating to this matter.
 6. The application is opposed by the Plaintiffs who filed Grounds of Opposition. They contend that the *Civil Procedure Act* and the Civil Procedure Rules do not recognize an Interested Party under Order 1 Rule 10(2), and that the intended Interested Party did not demonstrate a personal, legal, identifiable or known stake in the suit properties. Further, that the application is meant to mislead the Court to cover up the fraud of the Defendants.
 7. The 1st Plaintiff filed a replying affidavit sworn by its director, Kaushik Navinchandra Khatri who avers that the Intended Interested Party's role, if any, would be peripheral and evidentiary, warranting his inclusion as a mere witness as the Defendants and the Plaintiffs are fully capable of presenting all relevant facts and addressing the claims concerning the suit properties. He contends that the Intended Interested Party is a complicit actor recruited by a land fraud syndicate to derail this suit and shield Defendants from accountability for their role in manipulating the land records, the subject matter of this suit.
 8. The 2nd Plaintiff also filed a replying affidavit. He contends that allegations that he executed a Specific Power of Attorney and donated authority to act, to the intended Interested on his behalf and on behalf of Jagjivan Karsandas Khatri and Shashikant Jagjivan Khatri who are the registered lessees as tenants



in common in equal shares of LR No. 18113/114 (IR 62485/12) and who later jointly acquired LR No. 18113/113 (I.R 62485/62) now known as Nairobi /Block 197/247 are untrue.

9. He asserts that contrary to allegations that he resides in India, he is a Kenyan. He denounced his purported ID number indicated on the alleged Specific Power of Attorney and avers that Jagjivan Karsandas Khatri and Shashikant Jagjivan Khatri (both deceased) are Kenyans and that they have never resided in India. He asserts that the signatures on the alleged Power of Attorney are forgeries.
10. The Intended Interested Party filed a further affidavit. He claimed that he was first introduced to Jagjivan Karsandas Khatri (one of the Donors of the Power of Attorney) by one Mr. Keshra to be a Caretaker to Mr. Jagjivan in respect to L.R. No. 18113/113, which he accepted and after caretaking for about three years, he was granted a Special Power of Attorney, which was prepared by the said Jagjivan Karsandas Khatri through his lawyers, thus he could not have been party to any forgery of signatures or insertion of incorrect identity card numbers as alleged by the 2nd Plaintiff, adding that such claims can only be resolved by oral testimony.
11. He claims that he has been in continuous occupation of the suit property for a period exceeding 15 years thus a claim for adverse possession against the Owners is sustainable. He also claims that the alleged demise of the other Donors of the Powers of Attorney (Mr. Jagjivan Khatri and Mr. Shashikant Jagjivan Khatri) has not been established by evidence. He reiterates that he possesses critical information relating to the suit properties and the transactions surrounding it, including dealings that bear upon the fraud alleged in these proceedings.

Submissions

12. The Intended Interested party submits that by dint of Order 51 Rule 10 of the Civil Procedure Rules, his application ought not be defeated for want of form. Further, that he has an interest that is proximate and identifiable, being his role as Attorney over the disputed properties. He further submits that the objections raised by the Plaintiffs are not sustainable as they failed to prove the allegation of forgery of the Power of Attorney against him.
13. He submits that he also demonstrates close and sound knowledge of the suit properties and their history, which is critical for this Court to determine the suit. Further, that the exclusion of a party who holds valuable information necessary for full adjudication is a recipe for injustice. He points out that he has demonstrated his commitment to securing the suit properties as he reported an invasion on the said properties to the Director of Criminal Investigations as early as March 2024. He insists that the question whether Mr. Jagjivan Khatri and Mr. Shashikant Khatri are deceased is a critical factual issue that requires testing at trial.
14. To buttress his averments, the Intended Interested Party relied on the following decisions: *Muruatetu & Another v Republic; Kenya National Commission on Human Rights 2 Others (Interested Parties); (Petition 15 16 of 2015 (Consolidated))* [201 61 KESC 12 (KLR)], *Dennis Noel Mukhulo Ochwada & Another v Elizabeth Murungari Njoroge Another (2018)* eKLR, *Rosemary Wanjiku Murithi v George Maina Ndinwa* [2014] eKLR, *Jennifer Nyambura Kamau Humphrey Mbaka Nandi* [2013] eKLR and *Central Kenya Ltd v Trust Bank Ltd & 5 Others* [2002] EA.
15. On their part, the Plaintiffs submit that a party seeking joinder must be added as a Plaintiff, Defendant, or Third Party as the category of "Interested Party" exists only in constitutional or public interest litigation. Further, that the test for determining whether a party ought to be joined to proceedings is whether they are a necessary and/ or proper party whose presence is essential for the effective and complete adjudication of the dispute.



16. They argue that the test also requires a clear distinction between a party against whom a cause of action is asserted and one whose presence is necessary for the complete and effectual resolution of the issues in dispute. To this end, they contend that the Intended Interested Party ought to have demonstrated that the orders sought by the Plaintiffs would legally affect him, and that his joinder is necessary to avoid a multiplicity of suits or conflicting outcomes, which burden he failed to meet as he has no registered title, no contract with the Plaintiffs, and no pleaded cause of action or relief that would be impacted by the outcome of the suit.
17. They also submit that the purported Power of Attorney relied on by the Intended Interested Party is a forgery and borders on the absurd as it amounts to a usurpation of legal identity, as the Intended Interested party continues to assert agency over a living principal (2nd Plaintiff) who has personally appeared in court and denied any such relationship. Further, that parties whose contribution is purely evidentiary have no basis to be joined as they ought to appear as witnesses and not litigants.
18. To support their averments, the Plaintiffs relied on the following decisions: *Trusted Society of Human Rights Alliance v Mumo Matemu* [2015] eKLR, *Kingori v Chege & 3 Others* [2021] 2 KLR 243, and *Civicon Limited v Kivuwatt Limited and 2 Others* [2015] eKLR.
19. The rest of the Defendants did not oppose the instant application for joinder.

Analysis and Determination

20. Upon consideration of the instant Notice of Motion application including the respective affidavits and rivalling submissions, the only issue for determination is whether the Intended Interested Party has met the threshold to be joined as an Interested Party in the suit.
21. The Intended Interested Party's application for joinder is on the basis of separate Powers of Attorney allegedly donated by Jagjivan Karsandas Khatri, Shashikant Jagjivan Khatri and the 2nd Plaintiff in respect of L.R. 18113/1 13 and Mansurali Madatali Jinani and Amina Mansurali Jinani in respect of L.R. 18113/114. He claims that he has knowledge of the properties including past dealings which make his participation in the suit vital.
22. The Plaintiffs have vehemently opposed the instant application on the basis that beyond a forged Power of Attorney, the Intended Interested Party has no substantive interest in the subject matter and that it is a gross abuse of process for an agent to speak over and above a principal who is actively litigating the matter. They also claim that the category of joinder as an "Interested Party" does not exist in civil suits.
23. On joinder, Order 1 Rule 10 (2) of the Civil Procedure Rules stipulates as follows:
 - "(2) 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."
24. Black's Law Dictionary, 9th Edition, defines an 'Interested Party' as "A party who has a recognizable stake (and therefore standing) in a matter".



25. In *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others* [2014] eKLR, the Court defined an interested party as:
- “(An) interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause.”
26. While in *Meme v. Republic* [2004] KLR cited by the Court of Appeal in *Pravin Bowry v John Ward and Another* [2015] eKLR, it was held that joinder of parties will be permissible:
- “(i) Where the presence of the party will result in the complete settlement of all the questions involved in the proceedings;S
- (ii) Where the joinder will provide protection for the rights of a party who would otherwise be adversely affected in law: andS
- (iii) Where the joinder will prevent a likely course of proliferated litigation.”
27. I note the Applicant claims to have a Power of Attorney donated by various persons including the 2nd Plaintiff who own the suit lands. The 2nd Plaintiff has denied ever donating a Power of Attorney or ever living in India as claimed. The 2nd Plaintiff has insisted that the alleged Power of Attorney is a forgery since he has always lived in Kenya and had denounced the ID indicated in the said document Further, the 2nd Plaintiff has confirmed that Jagjivan Karsandas Khatri and Shashikant Jagjivan Khatri who are both deceased were Kenyans and never resided in India as claimed by the Intended Interested Party. He insists that the signatures on the alleged Power of Attorney are forgeries.
28. Looking at the titles annexed to the application for joinder, I note they are incomplete as only the front page is annexed. Further, from the averments in the supporting affidavit, I opine that except for the Applicant seeking to join this proceedings to prove fraud, he has not demonstrated what prejudice he stands to suffer if the 2nd Plaintiff who denied donating the Special Power of Attorney, proceeded with this matter nor how the Orders sought by the Plaintiffs would affect him. In my view, since the 2nd Plaintiff has denied donating the purported Power of Attorney to the Applicant, noting that two of the donors are deceased and he is already a principal in this suit, then the issue of joinder is unnecessary. I opine that the Applicant can be called as a witness but should not be made a party to this suit.
29. Based on the facts before me, while relying on the legal provisions I have quoted as well as associating myself with the decisions cited above which have set out the principles for joinder of an Interested Party, I find that the Applicant has failed to meet the criteria for joinder as he does not have a personal, legal, identifiable or known stake in the suit properties.
30. In my view I find that the prayers sought by the Plaintiffs would not legally affect him, as he has even confirmed that the 2nd Plaintiff is one of the parties that own the suit properties and denied that the vendor Samson Akelo Ouno, who sold suit properties to the 1st and 2nd Defendants ever owned the said land. I hence do not find his involvement in these proceedings as necessary as he will not be affected by the judgement of the suit.
31. In the circumstances, I find the instant Notice of Motion unmerited and will dismiss it.
32. Costs will be in the cause.



**DATED SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17TH DAY OF
SEPTEMBER 2025**

CHRISTINE OCHIENG

JUDGE

In the presence of:

Otieno for Anzala for 2nd Defendant

Nura for 2nd Defendant

Makori for Intended Interested Party

Odhiambo for Ochieng Oduol for Plaintiffs

Court Assistant: Joan

