



Akithi Ranching (Directed Agricultural) Company Limited v National Land Commission & 3 others (Environment and Land Petition E009 of 2023) [2025] KEELC 6147 (KLR) (15 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6147 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND PETITION E009 OF 2023
BM EBOSO, J
SEPTEMBER 15, 2025**

BETWEEN

AKITHI RANCHING (DIRECTED AGRICULTURAL) COMPANY LIMITED PETITIONER

AND

**NATIONAL LAND COMMISSION 1ST RESPONDENT
PRINCIPAL SECRETARY, MINISTRY OF LANDS 2ND RESPONDENT
ATTORNEY GENERAL 3RD RESPONDENT
COUNTY GOVERNMENT OF MERU 4TH RESPONDENT**

RULING

Introduction

- Through a petition dated 4/6/2024, M/s Akithi Ranching (Directed Agricultural) Company Limited sought, among other reliefs: (i) a declaration that their rights under Articles 35, 40 and 47 of the *Constitution* were infringed by the respondents; (ii) an order of certiorari quashing the notice issued by the 2nd respondent declaring land adjudication during the term of their lease over some 33,000 acres of land in Tigania West, Meru County; (iii) an order of certiorari quashing any title deed issued as a result of the said declaration of land adjudication; (iv) an order of mandamus compelling the 1st and 3rd respondents to expedite and undertake renewal and/or extension of their lease; (v) an order that the extension of lease by the defunct County Council of Nyambene dated 26th September, 2001 is still valid, (vi) a permanent injunction restraining the 2nd respondent against undertaking any adjudication in the ranch land; (vii) mesne profits; and (viii) costs of the petition.
- Subsequent to that, two groups of applicants brought two different motions seeking joinder to the petition as interested parties. Falling for determination in this ruling are the two applications, dated



18/9/2024 and 22/11/2024, respectively. The common issue to be determined in the two applications is whether the applicants have met the criteria for joinder to a subsisting petition. I will summarize the gist of the two applications sequentially in the above order. Before I do that, I will briefly outline the relevant legal framework and the prevailing jurisprudence on the question of joinder to a constitutional petitioner.

Legal Framework

3. The applicable legal framework on joinder of a new party to an existing petition is rule 5(d) and rule 7 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules. Rule 5 (d) provides as follows:
 - (d) 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 just:
 - (i) order that the name of any party improperly joined, be struck out; and
 - (ii) that the name of any person who ought to have been joined, or whose presence before the court may be necessary in order to enable the court adjudicate upon and settle the matter, be added.
4. Rule 7 provides as follows: -

Interested party

 - (1) A person, with leave of the Court, may make an oral or written application to be joined as an interested party.
 - (2) A court may on its own motion join any interested party to the proceedings before it.

Prevailing Jurisprudence

5. The Supreme Court of Kenya defined an interested party in *Trusted Society of Human Rights Alliance v Matemo and 5 others*; Petition 72 of 2013 [2014] KESC 32 [KLR] as follows: -

“Consequently, 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 interests will not be well articulated unless he himself or she herself appears in the proceedings and champions his or her cause”.
6. In *Francis Kariuki Muruatetu & another v. Republic and 5 others* [2016] eKLR, the Supreme Court of Kenya outlined the following principles that guide our courts when disposing applications for joinder to constitutional petitions:

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

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. The prejudice to be suffered by the 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. 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 those submissions are not merely a replication of what the other parties will be making before the court.”

Application dated 18/9/2024.

7. The Application dated 18/9/2024 was brought by: (i) Alfred Kaibung’ a Baariu; (ii) Muriira Willian Chokera; (iii) Athinya Muthuri Haron; (iv) Victor Kariithi Kobia; (v) Joseph Muthee Kiunga; (vi) Japhet Elaine Baithailu; (vii) Lawrence Mutwiri Kinyua; (viii) Kaluai Julius; (ix) Joseph Kailutha Anampiu; (x) Romano Abuaba and (xi) Bruno Mugambi Linyiru.
8. The 11 applicants seek an order joining them as interested parties in this petition. The application was premised on the grounds outlined in the motion and in the supporting affidavit sworn on 18/9/2024 by Alfred Kaibung’ a Baariu and the supplementary affidavit sworn by the same deponent on 11/11/2024. It was canvassed through written submissions dated 11/11/2024, filed by M/s. A & B Advocates LLP.
9. The case of the applicants is that, together with their families, they reside in Ngaremara/Gambela Adjudication Section, which is located within the land that is the subject matter of this petition. Their social and economic wellbeing is inextricably linked to the suit land on which they have their homes. They have constructed churches on the suit land. They contend that any judgment rendered in this petition will affect them.
10. The 1st, 2nd and 3rd respondents did not oppose the two applications that sought orders of joinder. The County Government of Meru, too, did not oppose the two applications. The petitioner is the only party who opposed the two applications.
11. The petitioner opposed the application dated 18/9/2024 through a replying affidavit filed on 15/10/2024 and sworn on the same day by Michael S. Kilemi Nabea, a director of the company. In addition, the petitioner filed written submissions dated 23/3/2025 through M/s. C M Kimathi & Co. Advocates, opposing the two applications.
12. The case of the petitioner is that the 11 applicants have not satisfied the criteria for joinder to a petition as an interested party. They contend that the 11 applicants have failed to place before court documents identifying the parcels which they allegedly occupy. They argue that the applicants have not demonstrated their respective identifiable stake or interest in the suit land. They urge the court to reject the application.

Application dated 22/11/2024

13. The application dated 22/11/2024 was brought by: (i) Luke Mungania; (ii) Philip Mwiti Igweta; (iii) Stephen Thinkii Mucheke; (iv) Robert Chati; (v) Henry Mwingirwa; (vi) Kiramana George Abuaba; (vii) Charles Kamwibua Thiritu; (viii) Gituma Munjuri David; and (ix) Stephen Linyiru Ibayu.
14. The 9 applicants seek to be joined to this petition as interested parties. The application dated 22/11/2024 was premised on the grounds outlined in the motion and in the supporting affidavit sworn on 22/11/2024 by Luke Mungania Inebu and the supplementary affidavit sworn by the same deponent on 14/2/2025. It was canvassed through written submissions dated 25/2/2025, filed by M/s. Wanjiku Muna & Co. Advocates.
15. The case of the 9 applicants in the application dated 22/11/2024 is that they own and reside on parcels within Ngaremara/Gambela Adjudication Section which falls within the land that is the subject matter



of this petition. They are representatives of the larger Ngaremara/Gambela Adjudication Section Community. They have invested heavily in their respective parcels. They own homes in their respective parcels in which they reside. Any determination made in this petition will affect them. They risk losing their properties in the event they are not admitted as interested parties and the petition is ultimately determined in favour of the petitioner. They have direct interests in the suit land.

16. The petitioner opposed the application dated 22/11/2024 through a replying affidavit sworn on 17/12/2024 by Michael S. Kilemi Nabea and through their joint written submissions dated 24/3/2025, filed by M/s. C M Kimathi & Co. Advocates. The case of the petitioner is, by and large, similar to their case in the application dated 18/9/2024.

Analysis and Determination.

17. The court has considered the two applications, the respective responses to the two applications and the parties' respective submissions in the two applications. As observed in the introduction part of this ruling, the common issue to be determined in the two applications is whether the applicants meet the criteria for joinder as an interested party in an existing petition. The relevant legal framework and the prevailing jurisprudence have been outlined in the preceding part of this ruling. I will therefore go straight to the issue.
18. The applicants in both applications contend that they own land and reside in Ngaremara/Gambela Adjudication Section which falls within the suit land. They contend that the parcels which they own and occupy is the subject matter of the Land Adjudication Notice which the petitioner seeks to annul through orders of certiorari. The parcels which they allegedly own and occupy are the subject matter of the title-annulment orders that the petitioner seeks in this petition.
19. The applicants in the application dated 22/11/2024 filed a supplementary affidavit dated 14/2/2025 through which they exhibited a letter dated 13/11/2024 from the Tigania East/Central Sub-County Land Adjudication & Settlement Officer in which the specific parcels held by the 9 applicants have been identified. They also exhibited the relevant land demarcation maps.
20. The applicants in the application dated 18/9/2024 exhibited a letter dated 17/9/2024 from the same Sub-County Land Adjudication & Settlement Officer. The specific letter identifies the specific parcels held by each of the 11 applicants. The 11 applicants also exhibited demarcation maps showing where the 11 parcels are located within the section.
21. It is clear from the reliefs sought in this petition that the petitioner seeks an order annulling the ongoing land adjudication exercise. The petitioner also seeks an order annulling any title that has been issued or is to be issued pursuant to the adjudication exercise. Above all, the petitioner wants to be issued with a lease relating to land which the applicants claim to have gathered and to be holding. Clearly, the applicants properly fit the definition of interested parties in the above circumstances. They are entitled to be heard in the petition.
22. Consequently, taking the above into account, the court comes to the conclusion and finding that the applicants in the two applications dated 18/9/2024 and 22/11/2024, respectively, have met the criteria for joinder as interested parties in an existing petition. Costs of the two applications shall be in the petition.

Disposal Orders

23. In the ultimate, the two applications dated 18/9/2024 and 22/11/2024 are disposed as follows: -



- a. The 11 applicants in the application dated 18/9/2024 are joined as the 1st to 11th interested parties in this petition.
- b. The 9 applicants in the application dated 22/11/2024 are joined as the 12th to 20th interested parties in this petition.
- c. The petitioners shall amend the petition within 14 days.
- d. The said interested parties are hereby granted leave to file responses to the amended petition, clearly setting out their respective interests/stakes in the suit land.
- e. Costs of the two applications shall be in the petition.

DATED, SIGNED AND DELIVERED AT MERU THIS 15TH DAY OF SEPTEMBER, 2025

B M EBOSO [MR]

ELC JUDGE

