



**Isaac & another v Kabole & 3 others; Area Chief Luanda Township Location
Ebusikhale Sub-Location (Interested Party) (Environment and Land Miscellaneous
Application E001 of 2024) [2024] KEELC 6545 (KLR) (7 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6545 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT VIHIGA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E001 OF 2024
E ASATI, J
OCTOBER 7, 2024**

BETWEEN

MUNAYO OPONDO ISAAC 1ST APPLICANT

ABEDNEGO ODONGO KABOLE 2ND APPLICANT

AND

ALBERT OSILU KABOLE 1ST RESPONDENT

**THE LAND REGISTRAR COUNTY GOVERNMENT OF
VIHIGA 2ND RESPONDENT**

**THE LAND SURVEYOR COUNTY GOVERNMENT OF
VIHIGA 3RD RESPONDENT**

PASTOR AGGREY KADENGE 4TH RESPONDENT

AND

**THE AREA CHIEF LUANDA TOWNSHIP LOCATION EBUSIKHALE SUB-
LOCATION INTERESTED PARTY**

RULING

1. This ruling is in respect of the Notice of Motion application dated 8/5/2024 brought by the applicant, Munayo Opondo Isaac. The application seeks for orders that; -
 - a. The application be certified as urgent and that the same be heard urgently and ex parte in the first instance.
 - b. That the application be served upon the parties to the matter and that an earlier inter partes date be set for the hearing of the matter.



- c. The applicant/intended 2nd plaintiff, be and is hereby enjoined in the matter as 2nd plaintiff..
 - d. In preserving the subject matter of the suit, any Letters of Administration, documentation, purported deed of ownership and or arrangement from and by the local administration that may have been generated with respect to the ownership of the suit property be and are hereby stayed pending the hearing and determination of the instant Motion.
 - e. The family talks that are ongoing and as are being over sighted by the Local Administration be annexed to this Court's Mediation process.
 - f. The process, documentation and/or proceedings as may have unfolded at the County Lands Board be stayed and called/surrendered to court for purpose of determining the issue of ownership of the suit property.
 - g. Costs of the application be in the suit.
2. The application was supported by the averments in the Supporting Affidavit sworn by the applicant on 8th May 2023.
 3. The applicant in the substantive application herein, Abednego Odongo Kabole, did not oppose the application. He filed a reply dated 7th October 2024 indicating that he supports the application.
 4. The application was opposed by the 1st Respondent, Albert Osilu Kabole, who stated that the applicant is a grandson and that he does not see the interest of the applicant in the case.
 5. I have considered the application and the grounds advanced in opposition thereof. Prayers 1, 2 and 4 of the application are spent as they sought for interim orders pending hearing and disposal of the application.
 6. The substantive prayer sought is prayer 3 of the application which is a prayer for joinder of the applicant as a party in the matter. This court is empowered by order 1 Rule 10 of the [Civil Procedure Rules 2010](#) to allow joinder of parties to a matter where such joinder is necessary so as to enable the court to completely and effectually adjudicate upon and settle all questions involved in the matter.
 7. The applicant states that he is a member of the Kabole family and that the customary law and the ancestors will not allow him to sit pretty comfortable seeing the family land being fraudulently and un-procedurally sold to strangers and people outside the family circle. A part from this, the applicant has not demonstrated what interest he has in the subject matter of the matter before court or how his presence in the matter will be necessary for determination of the real issues in controversy. The application for joinder is therefore hereby declined.
 8. The application for joinder having been declined, the rest of the prayers must fail.
 9. The upshot is that the Notice of Motion dated 8th May 2024 is not merited. The application is hereby dismissed. No order as to costs.

Orders accordingly.

RULING DATED AND SIGNED AT VIHIGA DELIVERED VIRTUALLY THIS 7TH DAY OF OCTOBER, 2024 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:



Ajevi- Court Assistant.
for the Applicant.
for the Respondent.

