



**Kahenya v Kimani (Environment & Land Case 85 of 2014 & 160 of 2012  
(Consolidated)) [2023] KEELC 18918 (KLR) (11 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18918 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 85 OF 2014 & 160 OF 2012 (CONSOLIDATED)**

**A OMBWAYO, J  
JULY 11, 2023**

**BETWEEN**

**LOISE WAMBUI KAHENYA ..... PLAINTIFF**

**AND**

**DOROTHY NYOKABI KIMANI ..... DEFENDANT**

**RULING**

1. The plaintiff has come to court with an application for orders that this honorable court be pleased to grant leave to the plaintiff (in ELC No. 85 of 2014) to join Sybella Wanjiku Gitiha as a defendant herein (ELC No. 85 of 2014) and to treat the annexed further amended plaint as duly filed subject to payment of the requisite court fees.
2. Moreover, that this honorable court to grant leave to the plaintiff to effect service of summons to Enter appearance and any other processes upon Sybella Wanjiku Gitiha by way of registered post through post office Box Number 124, Kiambu.
3. That this honorable court grants leave to the plaintiff to adopt as evidence to be considered during judgment, the application for registration of caution against Title No. Nakuru/Bahati/329 that equally refers to Title No. Nakuru/Bahati Settlement Scheme/217. That the plaintiff be at liberty to apply. That this honorable court grants any other and or further orders it deems fit. The cost of the application be provided for.
4. The application is based on grounds that in the course of hearing of evidence of Sybella Wanjiku Gitiha the plaintiff discovered that Sybella was the one in occupation of the plaintiff's property title No. Nakuru/Bahati Settlement Scheme/217 which she thought was occupied by the defendant. She needs to seek an order of eviction against the said Sybella Wanjiku Gitiha. She does not know the physical address of the said Sybella Wanjiku Gitiha. the application is opposed by the defendant who states that the same will result in delay of the matter which is pending judgement. According to the defendant,



the application is made in bad faith. The defendant states that the plaintiff has had the knowledge that the said Sybella Wanjiku Gitihia is in occupation of parcel number 217.

5. I have considered the application and the response and the proceedings before me on March 23, 2023 and do find that Sybella Wanjiku Gitihia is a necessary party to enable the court to conclusively determine the dispute. The orders that would be granted will definitely affect Sybella Wanjiku Gitihia ultimately, I do grant leave to the plaintiff to enjoin Sybella Wanjiku Gitihia as the 2<sup>nd</sup> defendant. Amended plaint be filed and served within 5 days. The 2<sup>nd</sup> defendant to file and serve defence within 7 days. The 2<sup>nd</sup> defendant be at liberty to file defence within 5 days of service. The 2<sup>nd</sup> defendant to file a statement in respect of the allegations by the plaintiff. The matter to be re-opened for the hearing of the 2<sup>nd</sup> defendant case.

**RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 11<sup>TH</sup> DAY OF JULY 2023.**

**A O OMBWAYO**

**JUDGE**

