



**Wanjohi v Saif Holdings Limited & 2 others (Environment & Land Case E276 of 2021) [2022] KEELC 4764 (KLR) (8 September 2022) (Ruling)**

Neutral citation: [2022] KEELC 4764 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E276 OF 2021  
EK WABWOTO, J  
SEPTEMBER 8, 2022**

**BETWEEN**

**ISAAC GATHUNGU WANJOHI ..... PLAINTIFF**

**AND**

**SAIF HOLDINGS LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**COUNTY GOVERNMENT OF NAIROBI ..... 2<sup>ND</sup> DEFENDANT**

**CHIEF LAND REGISTRAR ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. Saif Holdings Limited the 1<sup>st</sup> Defendant herein has moved this court vide a Notice of Motion Application dated 31<sup>st</sup> May 2022, seeking for the following orders:-
  - a) Spent.
  - b) That the Chief Land Registrar be joined as a 3<sup>rd</sup> Defendant in this suit.
  - c) That this Honourable Court be pleased to grant all the parties herein leave to amend their respective pleadings if need be.
  - d) That this Honourable Court be pleased to grant all the parties herein leave to file further list of documents and witness statements consequently thereto, if need be.
  - e) That the Honourable Court makes such orders as are necessary for the interest of justice.
  - f) The costs of this Application be in the cause.
2. The Application is supported by grounds stated on its face as well as the supporting Affidavit of Taherali Tajbhai, a director of the 1<sup>st</sup> Defendant sworn on 31<sup>st</sup> May 2022, where he deposed that the Plaintiff did not include the Chief Land Registrar at the time of filing suit and that it is necessary for the



Chief Land Registrar to be joined to shed light over the ownership dispute in respect to L.R No. 15107 (66258) which according to him is registered and owned by the 1<sup>st</sup> Defendant. He further deposed that no prejudice will be suffered by either the Plaintiff or the 2<sup>nd</sup> Defendant in respect to the joinder of the Chief Land Registrar as a party to this case.

3. The application is opposed by the Plaintiff. In opposition to the same, the Plaintiff has filed a Replying Affidavit sworn on 22<sup>nd</sup> August 2022 where he deposed that the Chief Land Registrar was not included in the suit because he is not a necessary party herein since according to the Plaintiff he is the registered and legitimate owner of the property and further being the Plaintiff, he is at liberty to choose whom to include as a Defendant.
4. Pursuant to the directions of this Court issued on 19<sup>th</sup> July 2022, it was directed that the said application be canvassed by way of written submissions upon which this Court will consider the same and render its ruling. The 1<sup>st</sup> Defendant filed its written submissions dated 1<sup>st</sup> August 2022 while the Plaintiff's written submissions were dated 22<sup>nd</sup> August 2022. No written submissions were filed by the 2<sup>nd</sup> Defendant and the Intended 3<sup>rd</sup> Defendant.
5. I have considered the application and the response that was filed. In my considered view, the sole issue that arise for determination is whether the Chief Land Registrar ought to be joined in this suit as a 3<sup>rd</sup> Defendant.
6. Order 1 Rule 10, (2) of the [Civil Procedure Rules](#), which provision states as follows;

“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.”

7. Essentially therefore, any person who, though not a party to proceedings pending in court and has an interest in the subject matter of such proceedings to the extent that they will be affected by the decision of the court whichever way the decision goes, then such person qualifies to be termed as a necessary party and ought to be allowed to join such proceedings.
8. I have considered the 1<sup>st</sup> Defendant's averments that the intended 3<sup>rd</sup> Defendant is the custodian of all land records in Kenya and further that both the Plaintiff and the 1<sup>st</sup> Defendant are claiming ownership to the suit property and I am satisfied that it is necessary to join the intended 3<sup>rd</sup> Defendant as a party to this suit as this will aid the Court in effectively determining the dispute between the Plaintiff and the 1<sup>st</sup> Defendant herein. The presence in this suit of the Intended 3<sup>rd</sup> Defendant is necessary to enable the court to effectually and completely adjudicate upon and settle all issues arising herein.
9. Consequently, the Application dated 31<sup>st</sup> May 2022 is merited and is allowed in the following terms;
  - i. The Chief Land Registrar be and is hereby joined to this suit as the 3<sup>rd</sup> Defendant.
  - ii. The 1<sup>st</sup> Defendant is directed to serve the 3<sup>rd</sup> Defendant with all the pleadings herein within 5 days from today.
  - iii. Upon service, the Plaintiff, 1<sup>st</sup> and 2<sup>nd</sup> Defendant are granted leave if need be to amend their pleadings within 7 days from the date of service.



- iv. The 3<sup>rd</sup> Defendant shall have 21 days upon service to file and serve its pleadings, list of documents, witness statements and any other documents they intend to rely on during trial.
- v. This matter shall be proceed for hearing on 11<sup>th</sup> October 2022 as earlier scheduled.
- vi. Each party to bear own costs of the application.

10. It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI BY EMAIL THIS 8TH DAY OF SEPTEMBER 2022.**

**E. K. WABWOTO**

**JUDGE**

