



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAROK**

**ELC CAUSE NO. 46 OF 2017**

**FORMELY NAKURU ELC NO. 51 OF 2013**

**OLE NAADUKILA & 19 OTHERS.....PLAINTIFF**

**-VERSUS-**

**OLE MESHUKO & 25 OTHERS.....DEFENDANT**

**RULING**

**(Notice of Motion dated 2<sup>nd</sup> November, 2018)**

By a Notice of Motion dated 2<sup>nd</sup> November, 2018 the 2<sup>nd</sup> Applicant sought for orders to be enjoined as an interested party in the suit herein. The Application was based on the grounds that his inclusive in the suit will assist the court in the effectual determination of the suit and further that any orders made will directly affect him and if he is not enjoined the matter will proceed without him being accorded the chance to be heard. The Application was supported by the affidavit of the 2<sup>nd</sup> Applicant who deponed that the suit land belonged to his deceased father and that he is the administrator of his deceased father's estate and that no prejudice will be occasioned to the other parties if he is enjoined in the suit.

The application was opposed by the 1<sup>st</sup> Defendant/Respondent who averred that there is no nexus between the proposed interested party and the defendants and that if the proposed interested party is aggrieved he should file a separate suit as he has not indicated who had encroached on the land.

I have considered the application before me and the replying affidavit in opposition to the application the grounds upon which a party may be enjoined in a suit are now settled. The party who wants to be enjoined in the suit must demonstrate that his inclusive in the suit will assist the court in effectually determining the dispute as between the parties. In the instant application the applicant contends that he is the administrator of the estate of his late father who owned plot No. 1174 Kipise Adjudication Section which was encroached upon and trespassed by the defendant. From the pleading the aforesaid plot is not included as among those that the claim against the defendant is based upon and for that reason I don't see how the inclusion of the applicant will assist the court in determining the issue as between the parties and for the above reasons I find that the Notice of Motion dated 2<sup>nd</sup> November, 2018 is not merited and in the circumstances I dismiss the same with costs.

**DATED, SIGNED and DELIVERED IN OPEN COURT AT NAROK on this 6<sup>th</sup> day of MAY, 2020.**

**Mohammed Kullow**

**Judge**

**6/5/2020**

In the presence of:

CA:Chuma

N/A for the parties and advocates

**Mohammed Kullow**

**Judge**

**6/5/2020**