



REPUBLIC OF KENYA



**Kibiwott v Bartocho & another (Succession Cause 133 of 2012)
[2025] KEHC 4725 (KLR) (11 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4725 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 133 OF 2012
RN NYAKUNDI, J
APRIL 11, 2025**

BETWEEN

LOICE J. KIBIWOTT PETITIONER

AND

JOSHUA LIMO BARTOCHO OBJECTOR

AND

DANIEL CHERUIYOT PROPOSED INTERESTED PARTY

RULING

1. The application before me dated 11th March, 2025 expressed under the provisions of Art. 40, 48, 50(1) and 159 (2)(d) of the *Constitution*, sections 1A, 2B, 3A and 3A of the *Civil Procedure Act* and Order 1 Rule 5 and Order 10 Rule 2 of the *Civil Procedure Rules*.
2. The proposed interested party herein seeks to be enjoined as an interested party to the proceedings. He contends that he bought the property vide an agreement dated 11th May, 2010 from the petitioner/ Respondent who is the beneficiary of the estate of the late Chebos Ruto comprising of 2 Acres and completed payment on or about 28th June, 2016.
3. The proposed interested party is apprehensive that his interests will not be catered for because the Objector in these proceedings is actually objecting to the land being bequeathed to him hence the need to present his case because the grant might come without his name.

Decision

4. I have read through the application and the supporting affidavit. I have not had sight of a response to the application but I shall nonetheless consider the application on its merits.



5. Under the *Constitution of Kenya (Protection of Rights and Fundamental freedoms practice and procedure Rules 2013)*, Rule 2 defines “interested party” as: -

“A person or entity that has an identifiable stake or legal interest in the proceedings before the Court but is not a party to the proceedings or may not be directly involved in the litigations.”
6. Gitari J. in the case of *AMM vs JMN* [2019] eKLR where the Judge had this to say about an interested party: -

“An interested party is one who has a stake in proceedings, though he was not a party to the cause ab initio. He is one who will be affected by the decision of the Court when it is made, either way. The Court should not act in vain by enjoining a party that clearly would have no interest in the subsequent proceedings”
7. In succession causes, persons who would be outright interested parties are beneficiaries, spouses, children, creditors and any other person who has a legal claim to an estate. From the application, the proposed interested party, Daniel Cheruiyot, claims to have purchased 2 Acres of land from the petitioner/respondent who is a beneficiary of the estate of the late Chebos Ruto. The purchase was made vide an agreement dated 11th May, 2010, with final payment completed on or about 28th June, 2016. This establishes that he has an identifiable stake in the proceedings as a person with a legal claim to part of the estate. Therefore, the proposed interested party has demonstrated a direct, substantial and legally protectable interest in the subject matter of this litigation.
8. The purpose of enjoining an interested party to proceedings is to ensure that all persons who may be affected by the outcome of a case are given an opportunity to be heard in accordance with the rules of natural justice. This is in line with Article 50(1) of the *Constitution* which guarantees the right to a fair hearing.
9. The Court notes that the application has been brought timeously before the determination of the objection proceedings. No prejudice will be occasioned to the parties if the proposed interested party is enjoined to these proceedings. In fact, it would be in the interest of justice to have all claims to the estate of the deceased determined conclusively to avoid multiplicity of suits.
10. On whether the other parties would be prejudiced with the joinder, the applicant pleaded that no prejudice would be occasioned on the respondents. On their part, the respondents did not demonstrate that they will suffer any prejudice if the applicant is enjoined in the cause.
11. In light of the foregoing observations, it is my finding that the applicant has convinced the Court that he merits to be enjoined to proceedings involving the estate of the deceased where his beneficial interests will be determined. Consequently, the chamber summons dated 11th March, 2025 is hereby allowed with no orders as to costs.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 11TH DAY OF APRIL 2025

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R. NYAKUNDI
JUDGE

