



**Muchina & 2 others v Mathenge & 4 others; Kimani & another (Interested Parties); Kanyeki & another (Proposed Interested Parties) (Civil Suit E030 of 2022) [2025] KEHC 8996 (KLR) (21 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 8996 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL SUIT E030 OF 2022  
DO CHEPKWONY, J  
APRIL 21, 2025**

**BETWEEN**

**PAULINE WANGARI MUCHINA ..... 1<sup>ST</sup> APPLICANT  
ANTHONY MWAURA WAWERU ..... 2<sup>ND</sup> APPLICANT  
DAVID MBUGUA NDICHU ..... 3<sup>RD</sup> APPLICANT**

**AND**

**THUO MATHENGE ..... 1<sup>ST</sup> RESPONDENT  
JOSPEH KIMANI KANGETHE ..... 2<sup>ND</sup> RESPONDENT  
RAPHAEL MUCHIRI NDUATI ..... 3<sup>RD</sup> RESPONDENT  
MBOI KAMITI FARMERS ..... 4<sup>TH</sup> RESPONDENT  
REGISTRAR OF COMPANIES ..... 5<sup>TH</sup> RESPONDENT**

**AND**

**ELIUD MUCHAI KIMANI ..... INTERESTED PARTY  
JAMES NDEGWA GITAU ..... INTERESTED PARTY**

**AND**

**JOSEPH MUHIA KANYEKI ..... PROPOSED INTERESTED PARTY  
MWAURA K. GEOFFREY ..... PROPOSED INTERESTED PARTY**



## RULING

1. This is a ruling in respect of the Notice of Motion application dated 9<sup>th</sup> December, 2024, whereby the Applicants, the Proposed 6<sup>th</sup> and 7<sup>th</sup> Interested Party are seeking to be enjoined as Interested Parties in this suit and for costs to be in the cause.
2. The Application is predicated on the grounds set out on its face and the Supporting Affidavit of the 6<sup>th</sup> and 7<sup>th</sup> Proposed Interested Parties sworn on the instant date. The Applicants seek to be enjoined in the suit since they are Shareholders of the 4<sup>th</sup> Defendant but have been excluded from participating in the proceedings and did not know of the existence of the suit. It is their argument that a Judgment was issued in Civil Suit No.1196 of 2006 between Joseph Muhia Kanyeki –vs- Mboi- Kamiti Farmers Co. Ltd and on 24<sup>th</sup> April, 2007 a decree issued in favour of the Plaintiff against the Defendant for the sum of Kshs. 6,737,589/= which decretal amount is yet to be paid by the 4<sup>th</sup> Defendant. It is their contention that the application has been brought without undue delay and neither party will be prejudiced if their application is allowed since it will be in the interest of justice.
3. The 1<sup>st</sup> and 4<sup>th</sup> Respondents have opposed the application through Grounds of Opposition dated 20<sup>th</sup> March, 2025. They hold that the 6<sup>th</sup> and 7<sup>th</sup> Proposed Interested Parties' concern relates to the execution of a decree for the sum of Ksh. 6,737,589 in Civil Suit No. 1196 of 2006 but they have not provided a valid basis for their seeking to be enjoined in these proceedings as Interested Parties. Further, it is their contention that the matter cited by the 6<sup>th</sup> and 7<sup>th</sup> Proposed Interested Parties relates to the execution of a monetary decree, hence this is not the proper avenue for them to be enjoined and ventilate their grievances over issues that relate to another suit which has already been concluded. They have urged that the application be dismissed.
4. The court directed that the application be canvassed by way of written submissions whereby the Applicants filed theirs dated 13<sup>th</sup> January, 2024 and the 1<sup>st</sup> and 4<sup>th</sup> Respondents have filed submissions dated 24<sup>th</sup> March, 2025.

### Determination

5. I have read through the respective affidavits filed by the parties herein in support and opposition of the prayers sought in the application dated 9<sup>th</sup> December, 2024. I have also read through the written submissions that either party has filed and find the main issue being whether the Applicants have satisfied the threshold set for joinder of parties in a suit.
6. In considering this application, the first port of call on the issue of joinder of parties is underpinned under Order 1 Rule 10(2) of the [Civil Procedure Rules](#) which 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 or settle all questions involved in the suit, be added.”



7. Under Rule 2 of the *Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules*, 2013, an Interested Party is defined as follows:-

“Interested party” means a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation”

8. The Supreme Court of Kenya in the case of *Communications Commission of Kenya and 4 Others –vs- Royal Media Services Limited & 7 Others* Petition No. 15 of [2014] eKLR relied on its earlier decision in the MUMO MATEMO Case in defining who an ‘Interested Party’ is, held as follows:-

“An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause. Similarly, in the case of *Meme v. Republic*, [2004] 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:

- (i) Joinder of a person because his presence will result in the complete settlement of all the question involved in the proceedings;
- (ii) Joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;
- (iii) Joinder to prevent a likely course of proliferated litigation.

We ask ourselves the following questions:

- a. What is the intended party’s stake and relevance in the proceedings and
- b) Will the intended interested party suffer any prejudice if denied joinder?”

9. In the instant case, the 6<sup>th</sup> and 7<sup>th</sup> Proposed Interested Parties seek to be enjoined in the suit because the 4<sup>th</sup> Respondent Company, in which they are Shareholders is a Judgment Debtor in a Civil Suit No. 1196 of 2006 between *Joseph Mubia Kanyeki –vs- Mboi Kamiti Farmers Co. Ltd.* where the 6<sup>th</sup> Proposed Interested Party has a Judgment in his favour against the 4<sup>th</sup> Respondent herein. Clearly, this civil suit is not related to these proceedings.

10. The Court finds that the 6<sup>th</sup> and 7<sup>th</sup> Proposed Interested Parties have not demonstrated any stake in these proceedings or what prejudice they stand to suffer to warrant their being enjoined as parties. There is no order which can be issued herein that will affect them adversely since the dispute involves Directors of the 4<sup>th</sup> Defendant and holding of an Annual General Meetings. Further more, the suit cited as the reason for their application is an already concluded case.

11. For those reasons, the Court finds that the application dated 9<sup>th</sup> December, 2024 lacks merit and the same is dismissed with no orders as to costs.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 21<sup>ST</sup> DAY OF MAY, 2025.**



**D. O. CHEPKWONY**

**JUDGE**

In the presence of:

M/S Kibebo counsel for Plaintiff present

No appearance by and for all counsel for other counsel

Court Assistant - Martin

