



Ngatia v Republic; Ngatia & another (Applicant) (Administrators of the Estate of Reginah Waruiru Ngatia) (Criminal Miscellaneous Application E013 of 2023) [2025] KEHC 8456 (KLR) (23 May 2025) (Ruling)

Neutral citation: [2025] KEHC 8456 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL MISCELLANEOUS APPLICATION E013 OF 2023
DO CHEPKWONY, J
MAY 23, 2025**

BETWEEN

GODFREY NJOROGE NGATIA APPLICANT

AND

REPUBLIC RESPONDENT

AND

ELIZABETH MUTHONI NGATIA APPLICANT

ZACHARIA MWAURA NGATIA APPLICANT

ADMINISTRATORS OF THE ESTATE OF REGINAH WARUIRU NGATIA

RULING

1. What is before the court for determination is the Notice of Motion application dated 21st July, 2023, wherein the Applicant is seeking the following orders:-
 - a. That the Applicants/Proposed 2nd and 3rd Respondents (Elizabeth Muthoni Ngatia and Zachary Mwaura Ngatia) administrators of the estate of the Deceased be granted leave to be enjoined to this case as 2nd and 3rd Respondents unless the court directs otherwise.
 - b. That the Applicants/Proposed 2nd and 3rd Respondents (Elizabeth Muthoni Ngatia and Zachary Mwaura Ngatia) administrators of the estate of the Deceased be allowed to file the necessary pleadings within 14 days or such reasonable time as this Honourable court may direct upon being properly served with the court proceedings already by the parties to this case.
 - c. That costs be in the cause.



2. The Application is based on the grounds as set out on its face and reiterated in the Supporting Affidavit of Zachary Mwaura Ngatia sworn on 21st July, 2023. According to the Proposed Respondents, the Applicant is charged with the offence of Creating Disturbance contrary to Section 95 (1) (B) of the Penal Code. It is claimed that on 24th April, 2024, the Applicant attempted to set ablaze the house of Reginah Waruiru Ngatia, the deceased and also attempted to run over her with Motor Vehicle Registration Number KBJ 145V on 24th April, 2016, which offence was committed in broad daylight. They have further stated that the Applicant, Godfrey Njoroge Ngatia then filed a Constitutional Petition No. 380 of 2017 which was dismissed on 15th July, 2021 that it would be in the interest of justice to grant the prayers sought.
3. The Applicant filed a Replying Affidavit sworn on 9th February, 2024, in which he contends that he is facing serious charges of creating disturbance and he has a chance of recalling witnesses before the trial court who are not aligned to the allegations raised by the 2nd and 3rd Respondents and it would be in the interest of justice that the application dated 21st July, 2023 is allowed.
4. The 2nd and 3rd Proposed Respondents filed submissions dated 16th April, 2024 where they reiterate that they have a stake in the matter and seek to be enjoined in the case so that it would result in complete settlement of all questions in the proceedings.

Analysis and Determination

5. To determine the application dated 21st July, 2023, I have read through and considered the grounds upon which the prayers sought are premised and find that the Proposed Respondents have met the threshold for joinder in this suit.
6. Joinder of parties in legal proceedings involves adding new parties (Plaintiffs or Defendants) to an existing case as either Plaintiffs or Defendants. This can occur at any stage of the proceedings and the process 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. From the said provision, a party seeking to be enjoined must make a formal request in that regard, the court may add parties to ensure all relevant parties are included in a case to fully resolve the dispute effectively. It must be shown that the parties to be enjoined share a common interest or their claims involve common question of law and fact with the ones in dispute or arose from the same transactions.
8. In the case of Communication Commission of Kenya and 3 Others v Rpyal Media Services Limited and 7 Others [2014]eKLR, the Supreme Court set out the following factors to be considered for joinder of Interested Parties:-
 - a. What is the Intended Interested Party’s stake and relevance in the proceedings?
 - b. Will the Intended Interested Party suffer any prejudice if joinder is allowed?



9. 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”

10. In the case of Kenya Medical Laboratory Technician and Technologists Board and 6 Others v Attorney General and 4 Others [2017], Mativo J. had the following to state:-

“The test is not whether the joinder of the person proposed to be added as an Interested Party would be according to or against the merits of the Petitioner or whether the joinder would involve an investigation into a question not arising on the cause of action averred by the Petitioner. It is whether the Intended Interested Party has an identifiable stake or a legal interest or duty in the proceedings. In determining whether or not an Applicant has a legal interest in the subject matter of an action sufficient to entitle him to be joined as a Interested Party the two test has not so much in analysis of what are the Applicant’s rights, but rather in what would be the result in the subject matter of the action if those reports could be established”.

11. In the instant case, the court finds that the 2nd and 3rd Respondents have not established any identifiable stake or legal interest for them to be enjoined in this case. Furthermore, the case they seek to be enjoined being Criminal case, there is likely to be no remedies issuing to the Applicants.

12. For those reasons, the court finds that the application lacks merits and the same is hereby dismissed.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 23RD DAY OF MAY, 2025.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Kinyua Wanjohi counsel for the Applicant

M/S Ndeda counsel for the State

Court Assistant - Martin

