



**SWG v GGG & 3 others (Matrimonial Cause E023 of 2022)
[2025] KEHC 10065 (KLR) (Family) (10 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10065 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MATRIMONIAL CAUSE E023 OF 2022
HK CHEMITEI, J
JULY 10, 2025**

BETWEEN

SWG APPLICANT

AND

GGG 1ST RESPONDENT

SGG 2ND RESPONDENT

AND

PM ALIAS PM OLE K 1ST INTENDED RESPONDENT

**THE NAIROBI CITY COUNTY GOVERNMENT 2ND INTENDED
RESPONDENT**

RULING

1. In her Motion dated 8th July 2024 the Applicant seeks the following orders:-
 - (a) That this court be pleased to order PM alias PM ole K and the Nairobi City County Government the Intended 3rd and 4th Respondents respectively be joined as parties in this suit.
 - (b) The annexed draft amended originating summons be deemed as duly filed upon payment of the requisite fees.
 - (c) Costs be provided for.
2. The application is based on the grounds thereof and the Applicant’s sworn affidavit of even date.
3. The 1st and 2nd Respondents have each in separate affidavits sworn on 8th October 2024 opposed the application.



4. The gist of the Applicant's prayers has to do with some land parcel number Mathare Area (1) No. xxx situate within Nairobi Municipality. The evidence which was presented before this court in an earlier application dated 31st March 2022 in which the court gave its ruling on 3rd June 2024 was to the effect that the Applicant did not convince the court that the same constituted a matrimonial property hence the orders she had sought were not granted.
5. The Applicant consequently filed this application so as to enjoin the intended 3rd and 4th Respondent as proper parties herein.
6. The 1st Respondent has vehemently opposed the said application on the grounds that there was no evidence that the same was a matrimonial property and thus capable of being litigated. He deponed that the court had earlier in the above cited ruling concluded that there was no sufficient evidence hence adding the Respondents as parties was purely vexatious and a waste of judicial time.
7. The 2nd Respondent on the other hand deponed that he was the true owner of the suit land and he attached a copy of the sale agreement between him and the 3rd proposed Respondent.
8. He also attached a copy of a power of attorney to that effect.
9. The 3rd and 4th intended interested parties did not file any response.
10. I have perused the application as well as the submissions by the parties on record. Save for the authorities cited and the portions of the law the submissions gravitate around the issue of whether the proposed Respondents be joined as parties herein.
11. There is no doubt that the suit property is contentious. My sister Odero J in her ruling dated 3rd June 2024 found that it was difficult to establish based on sale agreements who was the true owner of the property. She went on to state that:-

“The question of who owns the suit property and the question of whether the same constitute the matrimonial property are issues which can only be determined after the hearing of the suit. “
12. For the above reason I find the application merited since and unless the two intended Respondents are made parties there would not be a conclusive proof of ownership of the same.
13. In any case the issue which was before the court was purely an application for injunctive reliefs which was interim in nature and the court advised that the appropriate way was to hear all the parties in full. This obviously necessitates that the necessary parties be invited into the fray.
14. The provision of Order 1 Rule 10 (2) of the Civil procedure rules is worth considering here. The same states that:-

“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.” (underlining mine)
15. Consequently, unless the Respondents are joined into this suit the issues raised will not be adequately litigated and there will be a miscarriage of justice as the former couple will not establish who owned



the contentious property. In essence the court will be able to establish whether the same formed a matrimonial property.

16. The Respondent's save for costs which can be compensated have nothing to lose. As a matter of fact, it will end any suspicion on who owns the same.
17. The 4th Respondent who perhaps has been the holder of the legal instruments and the paper trail in terms of conveyancing is a crucial link between the parties and more specifically for the interest of justice ought to be roped in.
18. In the premises I find the application meritorious and order that:-
 - (a) PM alias PM ole K and Nairobi City County Government are hereby enjoined as the 3rd and 4th Respondents respectively.
 - (b) The Applicant granted leave to file and serve an amended originating summons within 14 days from the date herein.
 - (c) Costs shall await the outcome of the suit.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 10TH DAY OF JULY 2025.

H K CHEMITEI

JUDGE

