



**REPUBLIC OF KENYA**

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

**LAND CASE NO. 286 OF 2018**

**FRANCIS NDIRANGU MWANGI.....PLAINTIFF/APPLICANT**

**VERSUS**

**WILLIAM KIPLANGT SIGILAI.....1<sup>ST</sup> DEFENDANT**

**SAMWEL SANG..... 2<sup>ND</sup> DEFENDANT**

**KEVIN SANG..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. This suit is partly heard in that PW1 the plaintiff has already testified. 3 defendants were enjoined in this suit at its commencement. Now there is an application by the 3<sup>rd</sup> defendant dated **10<sup>th</sup> March 2021** seeks the following orders:

**1. THAT the Applicant, REBECCA TANUI TITANY, be joined as an interested party AND/OR in the alternative the 4<sup>th</sup> Defendant in this suit.**

**2. THAT the costs of this application be in the cause**

2. The plaintiff respondent's opposition to the application is contained in his sworn affidavit dated **9/4/2021** in which he simply states at **paragraph 18** that the application is an abuse of the court process.

3. The essence of joinder of parties to a suit is to have the disputes that would touch on their interests or in which they are necessary parties be determined with finality. **Order 1 rule 10 (2)** states as follows:

**“10. Substitution and addition of parties.**

**(1)...**

**(2) 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.”**

4. The main question to consider in an application for joinder is whether the proposed party's “*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.*” The plaintiff does not appear to be disputing that the proposed party is a necessary party.

5. The grounds upon which the application is made are that the proposed party is a daughter to the Sowe arap Titany deceased the registered owner of **LR Nakuru Municipality Block 29/30**; ; that she is born of Titany's second wife; that she is a brother to the 3<sup>rd</sup> defendant; that she has lived on the suit land for a lengthy period; that she is a beneficiary of the estate of the deceased; that she has a stake in the property and that her presence is necessary to enable the court effectually and finally adjudicate and settle the issues involved in the suit.

6. I have perused the annexures to the application and I am persuaded that the applicant has established that it would be necessary to have the applicant enjoined to the suit as an interested party.

7. Consequently the application dated **10/3/2021** has merit and the same is granted in terms of **prayer no 1** to the extent that the applicant **Rebecca Tanui Titany** is hereby enjoined to the instant suit as the 4<sup>th</sup> defendant. The 4<sup>th</sup> defendant shall file and serve her defence to the suit and generally comply with **Order 11** of the **Civil Procedure Rules** within **7 days** of this order in default of which the orders of joinder made herein shall automatically lapse. The costs of the application shall be in the cause.

**DATED, SIGNED AND ISSUED AT NAKURU VIA ELECTRONIC MAIL ON THIS 19TH DAY OF OCTOBER, 2021.**

**MWANGI NJORGE**

**JUDGE, ELC, NAKURU**