



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA

MISCELLANEOUS JUDICIAL REVIEW APPLICATION NO. 1 OF 2020

IN THE MATTER OF AN APPLICATION BY JAMES NDUNGU KABIRU

FOR LEAVE TO APPLY FOR JUDICIAL REVIEW ORDERS OF MANDAMUS

AGAINST REGISTRAR OF LANDS, KIRINYAGA DISTRICT

AND

IN THE MATTER OF LAND REFERENCE NO. MWEA/MUTITHI/SCHEME/121

AND

IN THE MATTER OF ARTICLES 2(1), 3(1), 10, 21(1), 22(1) 23(3) (f), 27(1), 47(1) 62(1) (b),

165(6) & 159(2) OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF LAND ACT NO. 6 OF 2012 AND LAND REGISTRATION ACT NO. 3 OF 2012

AND

IN THE MATTER OF SECTION 8(2) OF THE LAW REFORM ACT, CAP 26 OF

LAWS OF KENYA AND PART III OF THE FAIR ADMINISTRATIVE ACTION ACT NO. 4 OF 2015

BETWEEN

JAMES NDUNGU KABIRU.....APPLICANT

VERSUS

CHIEF LAND REGISTRAR.....1ST RESPONDENT

KIRINYAGA DISTRICT LAND REGISTRAR.....2ND RESPONDENT

ATTORNEY GENERAL.....3RD RESPONDENT

RULING

Before me is the Notice of Motion brought under *Section 3A CPA and Order 53 Rule 6 CPR* dated 3rd November 2020. The Applicant is seeking the following orders:-

(a) Spent.

(b) The Court be pleased to enjoin the Applicant as a party to this application.

(c) The Court be pleased to arrest the ruling/determination slated for 6/11/2021 pending the hearing and determination of this application and or in the alternative to review and set aside the same to allow the applicant be heard.

(d) The Court be pleased to stay this application pending the hearing of the application dated 19/10/2020 in Kerugoya J.R 2/2018.

The application is supported by the affidavit of the Applicant, Eunice Wanjiku Karanja on the following grounds:-

- (1) The Applicant herein is directly and intrinsically affected by the orders being sought in this application.
- (2) Under *Order 53 rule 6*, any person adversely or prejudicially affected by an application in the nature of judicial review is enjoined to be heard.
- (3) On 7/10/2020, the Applicant herein sought to be heard but the Court struck out the Notice filed by the advocate for the Applicant contrary to the provisions cited above.
- (4) There is a pending application in JR 2/2018 whose determination will have a bearing on the outcome of this matter.
- (5) It is just and mete to avoid bias and prejudice against the Applicant.

THE APPLICANT'S CASE

The Applicant in her supporting affidavit deposed as follows:-

- (1) That I am the widow of the late Samuel Karanja the Ex-parte applicant in Kerugoya Misc. J.R. 2/2018 and I have successfully been substituted as a party in the aforesaid matter.
- (2) That the orders sought to be executed by this application are in respect of the said Misc. J.R. 2/2018 and specifically the suit land MWEA/MUTITHI/SCHEME/121 which is the subject matter in the aforementioned proceedings and also these proceedings.
- (3) That I have already filed an application dated 19/10/2020 which seeks to challenge and or alter the orders which are to be implicated by this application. Annexed and marked "A" is a copy of the Notice of Motion application before the said Court.
- (4) That it is not only in the interest of justice but fair and administratively convenient to have me heard in this matter and in the event that the same is delivered to stay the orders pending my being heard to enable the Court hear my side of the matter.
- (5) That I had not been served with the application but learnt of its existence as I perused the Misc JR 2/2018.
- (6) That the Applicant seems to be seized by a scheme to avoid the course of justice and engender my property rights.
- (7) That it is mete and just.
- (8) That what is deponed to herein is true to the best of my knowledge, information and belief.

EX-PARTE APPLICANT'S CASE

The Ex-parte Applicant, James Ndungu Kabiru filed a replying affidavit and stated as follows:-

- (1) That I am the Ex-parte Applicant herein, fully conversant with the facts of this case, and I am therefore competent to swear this Replying Affidavit in response to the application herein.
- (2) That I have read and understood the contents of the Notice of Motion application dated 3rd November 2020 together with the Supporting affidavit sworn by Eunice Wanjiku Karanja (the Supporting affidavit) on the even date together with the annexures thereto.
- (3) That I have also had matters of law and fact explained to me where necessary by the firm of Nyaanga & Mugisha Advocates (my Advocates on record) which advice I verily believe to be sound in law.
- (4) That from the onset, I wish to confirm that I have registered interest over the parcel of land known as MWEA/MUTITHI/SCHEME/121 having purchased the same for a sum of Ksh. 15,500,000/= through a public auction held on 28th September 2017 at Ngurumbani (Wanguru Township) being the highest and successful bidder. (Annexed hereto and marked as "JNK -1" are copies of newspaper advert, certificate and Memorandum of sale).
- (5) That thereafter, I paid stamp duty fees on 10th September 2018 and lodged the conveyance documents including duly executed

transfer forms, title deed, Memorandum of transfer, consent letters, certificate of sale and receipts with the 2nd Respondent herein to effect transfer and registration of the suit property in my name as the lawful proprietor.

(Annexed hereto and marked as “JNK-2” are copies of stamp duty receipts and duly filled conveyance documents).

(6) That however, despite presenting all the requisite conveyance documents, the 2nd Respondent refused, neglected and/or failed to effect transfer and registration of the suit property, while noting on top of my application for registration Form that my documents could not be processed because “.....there is a Court order pending/awaiting verification” which led to filing of the present application. (Annexed hereto and marked as “JNK-3” is a copy of lodged documents).

(7) That I am duly advised by my Advocates on record that for the Applicant herein to be enjoined as an interested party in the present suit, she must adduce evidence to show that she has stake or interests in the proceedings and that she will suffer prejudice if denied joinder.

(8) That to the contrary, Eunice Wanjiku Karanja has not produced any document i.e. the title deed, a grant or even letter of allotment showing her name or that of Samuel Kanja Kinunu as registered proprietors with interests over the said land. Infact, the name of Samuel Kanja Kinunu was crossed out in the green card and as such, neither him nor Eunice Wanjiku Karanja has interest in the suit property. (Annexed herewith and marked as “JNK 4” is a copy of Green Card).

(9) That therefore, since the Applicant has not produced any document to demonstrate interests in the suit land, she has no interest in the present suit at all and no prejudice will be meted on her at all if the present application is dismissed.

(10) That further, it is instructive to note that the present application to enjoin Eunice Wanjiku Karanja in the present suit is premised on allegations that since she was enjoined in J.R. No. 2 of 2018 to substitute Samuel Kanja Kinunu, she has interest in the present suit.

(11) That however, contrary to these assertions, I wish to demonstrate to this Court that the Applicant herein misled and hoodwinked the Court to allow her substitution application in J.R. No. 2 of 2018 through treachery, concealment, misrepresentation, fraud and non-disclosure of material facts and the same should not be allowed to be replicated in the present suit.

(12) That I am advised by my Advocates on record which advice I verily believe to be sound in law that a suit abates by operation of the law twelve (12) months after the death of an Applicant/Plaintiff if no application is filed and that a Court can only cause the legal representative of the deceased to be made a party to the proceedings if an application is made within one (1) year before the suit abates.

(13) That accordingly, following the death of Samuel Kanja Kinunu on 19th May 2011, Eunice Wanjiku Karanja was supposed to file substitution proceedings as the legal representative of his Estate within one (1) year from late of death of her husband. (Annexed herewith and marked as “JNK-5” is a copy of Death certificate).

(14) That however, I am aware that Eunice Wanjiku Karanja, filed an application for substitution for substitution on 7th March 2016 purporting to substitute Samuel Kanja Kinunu five (5) years after he died in 19th May 2011 and approximately four (4) years after the suit abated by operation of the law on 19th May 2012. Annexed herewith and marked as “JNK-6” is a copy of Notice of Motion dated 7th March 2016.

(15) That I am further advised by my advocates on record which advice I verily believe to be sound in law that after abatement of the suit as in J.R. No. 2 of 2018, a Court could only cause Eunice Wanjiku Karanja to be made a party to the proceedings if there was a separate application for revival of the suit and for enlargement of time to file application for substitution.

(16) That however, the above application filed by Eunice Wanjiku Karanja on 7th March 2016 in J.R No. 2 of 2018 was filed without separate application seeking to revive the already abated suit and for enlargement of time to file application for substitution.

(17) That therefore, the consequential orders issued by Court on 5th October 2018 enjoining Eunice Wanjiku Karanja as legal representative to substitute Samuel Kanja Kinunu (deceased) in J.R. No. 2 of 2018 are irregular, null and void abinitio and ought to be vacated forthwith.

Annexed herewith and marked as “JNK-7” is a copy of Court order dated 5th October 2018.

(18) That it is instructive to note further that even after the suit abated in J.R. No. 2 of 2018 by operation of the law on 19th May 2012, Eunice Wanjiku Karanja caused the following fraudulent activities to proceed in Court as if Samuel Kanja Kinunu was still alive and which this Honourable Court should interrogate:

(a) That Samuel Kanja Kinunu the Ex-parte Applicant passed on 19th May 2011 as per the attached death certificate.

(b) That however, Eunice Wanjiku Karanja only filed an application for substitution on 7th March 2016, five years later, after Samuel Kanja Kinunu passed on.

(c) That we note that there were Court proceedings on 16th November 2011 whereas the Samuel Kanja Kinunu had already passed on.

(d) That we further note vide an application dated 13th April 2015, the Court also made further orders in the matter, whereas by operation of law, the suit ought to have abated considering Samuel Kanja Kinunu had passed on.

(e) It is clear therefore that the matter in J.R. No. 2 of 2018 proceeded as if Samuel Kanja Kinunu was still alive.

(f) That we believe that the Applicant herein and in collusion of her Advocates on record deliberately failed to notify the Court that the Ex-parte Applicant had passed on, so that they would get orders in their favour and for their selfish gain.

(g) That the Applicant herein and or their Advocates acted fraudulently and totally misled the Court by purporting to prosecute a matter on behalf of dead person without substitution and without notifying Court.

(19) That accordingly, I aver that following the death of Samuel Kanja Kinunu on 19th May 2011, all the Court proceedings in J.R No. 2 of 2018 including any applications filed and orders issued by Court after the abatement of the suit on 19th May 2012 and without substitution of the deceased are irregular, null and void abinitio.

(20) That therefore, the subsequent orders made by Court on 16th November 2011 and 13th April 2015 in J.R. 2 of 2018 touching on the suit parcel of land were irregularly issued as the suit had already abated by operation of the law following the death of the deceased Ex-parte Applicant on 19th May 2011.

(Annexed herewith and marked as "JNK-8" are extracts of certified Court proceedings, applications and Court orders).

(21) That having stated the foregoing, I wish to respond to the specific averments in the supporting affidavit by Eunice Wanjiku Karanja as follows:-

(22) That in response to paragraphs 2, 3, 4, 5, 6,7 8 and 9 of the supporting affidavit, I aver that Eunice Wanjiku Karanja is a total stranger, has no interests in the suit property, and as such, she lacks locus standi in the present suit as she was previously irregularly enjoined in J.R. No. 2 of 2018.

(23) That in light of the foregoing, I aver that the present application as drawn is incompetent, incurably defective, bad in law and an abuse of Court process, and the same ought to be dismissed in limine with costs to the applicant.

(24) That what is deposed to herein is true and within my own knowledge save for matters deposed to on information and belief, sources whereupon and grounds have been duly disclosed.

INTERESTED PARTY'S CASE

The Interested party through the head of Legal one Jackson Kimathi swore a Replying affidavit to the application and deposed as follows:-

(1) That I am the head of legal of the Interested party (hereinafter referred to as "the bank") fully conversant with the facts of this case, and I have instructions from the Bank's Board of Directors to swear this Affidavit on its behalf.

(2) That I have read and understood the contents of the Notice of Motion application dated 3rd November 2020 with the supporting affidavit sworn by Eunice Wanjiku Karanja (the supporting affidavit) on the even date together with the annexures thereto.

(3) That I have also had matters of law and fact explained to me where necessary by the firm of Nyaanga & Mugisha Advocates (the Banks Advocates on record) which advice I verily believe to be sound in law.

(4) That from the onset, I wish to state that by an offer letter dated 21st July 2015, the bank herein agreed to advance a finance facility of Kenya Shillings Twenty Four Million, Five hundred thousand only (Ksh. 24,500,000) to one Martin Robin Kinuthia. (Annexed hereto and marked as "JK-1" is a copy of the offer letter).

(5) That the said loan facility was secured by a legal charge dated duly registered on or about 14th September 2015 over property land known as MWEA/MUTITHI/SCHEME/121 (hereinafter referred to as the suit property") owned by the said Martin Robin Kinuthia. (Annexed hereto and marked as "JK-2" is a copy of the charge instrument).

(6) That prior to advancing the loan facility and registering the legal charge over the suit property, the Bank conducted due diligence through an official search and confirmed that this particular property was registered in the name of Robin Martin Kinuthia, the borrower. (Annexed hereto and marked as "JK-3" is a copy of Title Deed and copy of Green Card).

(7) That however, the said Martin Robin Kinuthia defaulted in repaying the loan as a result of which the bank's right of statutory power of sale crystallized and was exercised in accordance with the statutory provisions of the law.

(8) That I am duly advised by the Bank's Advocates on record which advice I verily believe to be sound in law that once the Bank's

statutory power of sale crystallizes, the charged property becomes a commercial property available for sale.

(9) That consequently, on 14th September 2017, the Bank through its agent, Antique Auctioneers Limited, placed in the Daily Nation Newspapers an advertisement of sale by way of public auction of the suit property in exercising its statutory power of sale. (Annexed herewith and marked "JK-4" is a copy of the extract of Daily Nation Newspaper dated 14th September 2017).

(10) That on 28th September 2017, public auction was conducted as scheduled at Ngurumbani (Wanguru Township), and the suit property was purchased by the Ex-parte Applicant, one James Ndungu Kabiru for a sum of Ksh. 15,500,000/= being the highest and successful bidder. (Annexed herewith and marked "JK-5" are copies of certificate of sale and Memorandum dated 29th September 2017).

(11) That thereafter, I am aware that the Ex-parte Applicant paid stamped duty fees on 10th September 2018 and lodged the conveyance documents including duty executed transfer forms, title deed, Memorandum of transfer, consent letters, certificate of sale and receipts with the 2nd Respondent herein to effect transfer and registration of the suit property in his name as the lawful proprietor. (Annexed hereto and marked as "JK-6" are copies of stamp duty receipts and duly filled conveyance documents).

(12) That however, despite presenting all the requisite conveyance documents, the 2nd Respondent refused, neglected and/or failed to effect transfer and registration of the suit property, while noting on top of my application for registration Form that the documents could not be processed because "..... there is a Court order pending/awaiting verification....." which led to filing of the present application. (Annexed hereto and marked as "JK-7" is a copy lodged documents).

(13) That in this regard, I am duly advised by the Bank's Advocates which advice I verily believe to be sound in law that the process of sale by public auction alluded to above was done in accordance with the law and has never been challenged and/or invalidated by any tribunal or Court.

(14) That therefore, I wish to state that since the above public auction process was regular and in accordance with the law, the Ex-parte Applicant, James Ndungu Kabiru is the bona fide purchaser of the suit property and he ought to be registered as such. Accordingly, Samuel Kanja Kinunu nor Eunice Wanjiku Karanja has registered interests in the suit land whatsoever.

(15) That I am advised by the Banks Advocates on record that for the Applicant herein to be enjoined as an interested party in the present suit, she must adduce evidence to show that she has stake or interests in the proceedings and that she ill suffer prejudice if denied joinder.

(16) That to the contrary, Eunice Wanjiku Karanja has not produced any document or the title deed, a grant or even letter of allotment showing her name or that of Samuel Kanja Kinunu as registered proprietors with interests over the said land. In fact, the name of Samuel Kanja Kinunu was crossed out in the green card and as such neither him nor Eunice Wanjiku Karanja has interests in the suit property. (Annexed herewith and marked as "JK-8" is a copy of Green card).

(17) That therefore, since the Applicant has not produced any documents to demonstrate interests in the suit land, she has no interest in the present suit at all and no prejudice will be meted on her at all if the present application is dismissed.

(18) That further, it is instructive to note that the present application to enjoin Eunice Wanjiku Karanja in the present sit is premised on allegations that since she was enjoined in J.R. No. 2 of 2018 to substitute Samuel Kanja Kinunu, se has interest in the present suit.

(19) That however, contrary to these assertions I wish toi demonstrate to this Court that the Applicant herein misled and hoodwinked the Court to allow her substitution application in J.R. No. 2 of 2018 through treachery, concealment, misrepresentation, fraud and non-disclosure of material facts, and the same should not be allowed to be replicated in the present suit.

(20) That I am advised by the Bank's Advocates on record which advice I verily believe to be sound that in law that a suit abates by operation of the law twelve (12) months after the death of an Applicant/Plaintiff if no application is filed, and that a Court can only cause the legal representative of the deceased to be made a party to the proceedings if an application is made within one (1) year before the suit abates.

(21) That accordingly, following the death of Samuel Kanya Kinunu on 19th May 2011, Eunice Wanjiku Karanja was supposed to file substitution proceedings as the legal representative of his estate within (one) 1 year from the date of death of her husband (Annexed herewith and marked as "JK-9" is a copy of Death certificate).

(22) That however, I am aware that Eunice Wanjiku Karanja filed an application for substitution on 7th March 2016 purporting to substitute Samuel Kanja Kinunu five (5) years after he died in 19th May 2011 and approximately four (4) years after the suit abated by operation of the law on 19th May 2012 (Annexed herewith andmarekd as "JK-10" is a copy of Notice of Motion dated 7th March 2016).

(23) That I am further advised by my Advocates on record which advice I verily believe to be sound in law that after abatement of the suit as in J.R. No. 2 of 2018, a Court could only cause Eunice Wanjiku Karanja to be made a party to the proceedings if there was a separate application for revival of the suit and for enlargement of time to file application for substitution.

(24) That however, the above application filed by Eunice Wanjiku Karanja on 7th March 2016 in J.R. No. 2 of 2018 was filed without separate application seeking to revive the already abated suit and for enlargement of time to file application for substitution.

(25) That therefore, the consequential orders issued by Court on 5th October enjoining Eunice Wanjiku Karanja as legal representative to substitute Samuel Kanja Kinunu (deceased) in J.R. No. 2 of 2018 are irregular, null and void abinitio and ought to be vacated forthwith (Annexed herewith and marked “JK-11” is a copy of Court order dated 5th October 2018).

(26) That it is instructive to note further that even after the suit abated in J.R. No. 2 of 2018 by operation of the law on 19th May 2012, Eunice Wanjiku Karanja caused the following fraudulent activities to proceed in Court as if Samuel Kanja Kinunu was still alive and which this Honourable Court should interrogate:

(a) That Samuel Kinunu the Ex-parte Applicant passed on 19th May 2011 as per the attached death certificate.

(b) That however, Eunice Wanjiku Karanja only filed an application for substitution on 7th March 2016, five years later, after Samuel Kanja Kinunu passed on.

(c) That we note that there were Court proceedings on 16th November 2011 whereas the Samuel Kanja Kinunu had already passed on.

(d) That we further note vide an application dated 13th April 2015, the Court also made further orders in the matter, whereas by operation of law, the suit ought to have abated considering Samuel Kanja Kinunu had passed on.

(e) It is clear therefore that the matter in J.R. No. 2 of 2018 proceeded as if Samuel Kanja Kinunu was still alive.

(f) That we believe that the Applicant herein and in collusion of her Advocates on record deliberately failed to notify the Court that the Ex-parte Applicant had passed on, so that they would get orders in their favour and for their selfish gain.

(g) That the Applicant herein and or their Advocates acted fraudulently and totally misled the Court by purporting to prosecute a matter on behalf of dead person without substitution and without notifying Court.

(27). That accordingly, I aver that following the death of Samuel Kanja Kinunu on 19th May 2011, all the Court proceedings in J.R. No. 2 of 2018 including any applications filed and orders issued by Court after the abatement of the suit on 19th May 2012 and without substitution of the deceased are irregular, null and void abinitio.

(28). That therefore, the subsequent orders made by Court on 16th November 2011 and 13th April 2015 in J.R. 2 of 2018 touching on the suit parcel of land were irregularly issued as the suit had already abated by operation of the law following the death of the deceased Ex-parte Applicant on 19th May 2011.

(Annexed herewith and marked as “JNK-12” are extracts of certified Court proceedings, applications and Court orders).

(29). That having stated the foregoing, I wish to respond to the specific averments in the supporting affidavit by Eunice Wanjiku Karanja as follows:-

(30). That in response to paragraphs 2, 3, 4, 5, 6, 7 8 and 9 of the supporting affidavit, I aver that Eunice Wanjiku Karanja is a total stranger, has no interests in the suit property, and as such, she lacks locus standi in the present suit as she was previously irregularly enjoined in J.R. No. 2 of 2018.

(31). That in light of the foregoing, I aver that the present application as drawn is incompetent, incurably defective, bad in law and an abuse of Court process, and the same ought to be dismissed in limine with costs to the applicant.

(32). That what is deposed to herein is true and within my own knowledge save for matters deposed to on information and belief, sources whereupon and grounds have been duly disclosed.

LEGAL ANALYSIS AND DECISION

I have considered the Notice of Motion application, the annexures thereto and the rival submissions. What the Applicant is seeking in the said application is for orders inter alia to be enjoined as a party in these proceedings. These being Judicial Review proceedings, Order 53 **Rule 6 of the Civil Procedure Rules** provides as follows:-

“6. On the hearing of any such motion as aforesaid, any person who desires to be heard in opposition to the motion and appears to the High Court to be a proper person to be heard shall be heard notwithstanding that he has not been served with the notice or summons, and shall be liable to costs in the discretion of the Court if the order should be made”.

My discernment of the provisions for joinder as a party in Judicial Review proceedings is that an Applicant has to express the desire and demonstrate to the satisfaction of the Court that he is a proper person to be heard. The requirements for joinder as an interested party has been given in a plethora of decisions.

In the case of **Francis Kariuki Muruatetu and Another Vs Republic and 5 others (2016) e K.L.R.**, the Supreme Court set out the scope for admission as an interested party as follows:-

“(a) The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.

(b) The prejudice to be suffered by the intended interested party in case of non-joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.

(c) Lastly, a party must, in its application, set out the case and/or submission it intends to make before the Court, and demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court”.

From the averments contained in the application and the supporting affidavit, the Applicant stated that the orders sought to be executed in this suit are in respect of the proceedings in Misc. Application No. 2 of 2018 where she was substituted as the legal representative of her husband, one Samuel Kanja Kinunu. These averments were confirmed by the 1st Interested party through their replying affidavit where she annexed a copy of Notice of Motion dated 7th March 2016 and a Court order dated 5th October 2018.

If indeed the proposed interested party was substituted in place of her late husband in Misc. Application No. 2 of 2018, which the Applicant in the present suit is seeking to execute, then she stands to suffer substantial loss if the application for joinder is not granted.

The Interested party herein have straneously opposed the application stating that the substitution of the proposed interested party are irregular, null and void abinitio. The 1st interested party also stated that the orders issued by the Court in Misc. Application No. 2 of 2018 after the abatement of the said suit on 19th May 2012 are irregular, null and void as well. It is trite law that Court orders are valid unless the same are set aside or varied. The orders which were issued on 2nd October 2018 substituted Eunice Wanjiku Karanja in place of her late husband Samuel Kanja Kinunu (deceased) in Misc. Application No. 2 of 2018 have not been set aside or varied. If Jamii Bora Bank (Interested party) and James Ndungu Kabiru (Ex-parte applicant) are aggrieved by that decision or the proceedings in Misc. Application No. 2 of 2018, they are at liberty to make a formal application in that suit and not the current suit.

It is also to be noted that the Applicant herein has stated that she has filed an application in Misc. Application No. 2 of 2018 dated 19/10/2020 which seeks to challenge and/or alter the orders which are to be implicated by the present application. A copy of the said application was annexed and marked ‘A’. I am satisfied that the Applicant has a stake in the suit property L.R. No. MWEA/MUTITHI/121 which is the subject matter of these proceedings and unless the orders sought are granted, she will suffer prejudice.

Consequently, I find the Notice of Motion dated 3rd November 2020 merited and the same is allowed in the following terms:-

(1) The Applicant, Eunice Wanjiku Karanja be and is hereby enjoined as an interested party in these proceedings.

(2) The proceedings in this suit are hereby stayed pending hearing and determination of the application dated 19/10/2020 in Misc. Application No. 2 of 2018 (J.R).

(3) The costs of this application assessed at Ksh. 10,000/= shall be paid by the Applicant within 14 days from today.

RULING READ, DELIVERED PHYSICALLY AND SIGNED IN OPEN COURT AT KERUGOYA THIS 8TH DAY OF OCTOBER, 2021.

.....

E.C. CHERONO

ELC JUDGE

In the presence of:-

1. Mr. Siro for the Respondent

2. Ms Wanjeri holding brief for Rotich for Ex-parte Applicant

3. Interested party/Advocate – absent

4. Kabuta, Court clerk – present.