



**Siundu v Angote & another; Kenya Legal Defence Fund for
Human Rights (Interested Party) (Environment and Land Appeal
E010 of 2023) [2025] KEELC 4808 (KLR) (25 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4808 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT AND LAND APPEAL E010 OF 2023**

CK NZILI, J

JUNE 25, 2025

BETWEEN

WYCLIFFE SIMIYU SIUNDU APPELLANT

AND

JACKSON MILENGO ANGOTE 1ST RESPONDENT

REUBEN KIPCHIRCHIR 2ND RESPONDENT

AND

**KENYA LEGAL DEFENCE FUND FOR HUMAN RIGHTS INTERESTED
PARTY**

*(Being an appeal from the judgment and decree by the Hon. D.K.
Mutai (PM) delivered on 26/10/2023 in Kitale CMELC No. 42 of 2020)*

RULING

1. By an application dated 3/3/2025, Kenya Legal Defense Fund for Human Rights seeks to join this suit as an interested party. In the supporting affidavit sworn by Boniface Otieno, the Executive Director of the interested party, he says that, it is a registered non-governmental organization under Cap 124 to which the appellant came to seek its aid as he was condemned unheard at the lower court and risks eviction. The interested party says that it has a legal interest in the suit under Articles 40, 48, and 50 of *the Constitution*.
2. As a non-governmental organization, the interested party states that it has a mandate to act as a watchdog to oversee good governance and justice to prevail for all, hence it fits as a description of a necessary party to the appeal, whose presence is necessary in determining the real issues in question.



3. The application is opposed through a replying affidavit of the 1st respondent sworn on 10/3/2025 as misconceived, lacking merit, and falling short of the threshold of joinder of parties to a suit. The 1st respondent deposes that the eviction of the appellant was lawful after failing to meet the conditions set in the ruling dated 22/1/2025.
4. The applicant relies on written submissions dated 7/3/2025. Reliance is based on the Black's Law Dictionary 9th Edition, page 1232, Rule 2 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, (Mutunga Rules), Attorney General -vs- David Ndii & 73 Others, Petition 12 (E016) of 2020 [2021] KESC 17 [KLR], Trusted Society of Human Rights Alliance -vs- Mumo Matemu & Others SC Petition (Appl). No. 12 of 2013 and Francis Kariuki Muruatetu & Another -vs- Republic & Others [2016] eKLR and Articles 22, 20, 48 and 50 of *the Constitution*, Order 1 Rule 10 of the Civil Procedure Rules, Sarkar's Code of Civil Procedure Code of Civil Procedure 11th Edition Reprint 2011, Vol. 1 Page 887.
5. Joinder of parties is governed by Order 1 Rule 10(2) of the Civil Procedure Rules. A court may at any stage of the proceedings either upon an application of either party and on such terms as may appear just adds the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before court may be necessary to enable the court effectually and completely adjudicate upon and settle all questions involved in the suit.
6. In Communication Commission of Kenya & Others -vs- Royal Media Services Ltd & Another [2014] eKLR, the court set out the factors to consider as follows:
 - (a) What is the intended party's stake and relevance in the proceedings, and
 - (b) Will the intended party suffer any prejudice if denied joinder?
7. In Kenya Medical Laboratory Technicians and Technologists Board & 6 others -vs- Attorney General & 4 others [2017] eKLR, the court said that test is whether the joinder of the proposed party would be according to or against the wishes of the petitioner or whether the joinder would involve an investigation into questions arising on the cause of action averred by the petitioner and lastly, whether the intended party has an identifiable stake or a legal interest or duty in the proceedings.
8. In Francis Muruatetu & Others -vs- Attorney General & Others, the court said that enjoinderment is not as of right but is at the discretion of the court and that sufficient grounds must be laid such as the personal interest or stake that the party has in the matter which has been disclosed or is identifiable, proximity of the interest, prejudice to be suffered for non-joinder, relevance of the input of the party.
9. Joinder of a party may be refused if such a joinder will lead to practical problems of handling the existing cause of action together with the one of the party being joined; if it is unnecessary or if it will occasion a delay or unnecessary where there is no common question of fact or law arising or existing between the existing and the intended parties. What the applicant is asking is to join as an interested party in this appeal. An interested party, as per the caselaw cited above, is one with a stake and to be affected by the decision of the court when it is made either way, and who wishes to articulate their issue by appearing in the proceedings. See Muruatetu (supra).
10. In Mungano Wa Wanavijiji Akiba Mashinani Trust -vs- Kibiu & Others, Waweru & Others (IP) Civil Appl. E279 of 2022[2023] KECA 946 [KLR] (28th July 2023) (Ruling), the court declined to join the applicant to the appeal since it had shown manifest partisanship in support of the appellant.
11. In Black's Law Dictionary, 9th Edition, a necessary party is defined as one who is closely connected to a lawsuit. Order 41 Rule 5 of the Civil Procedure Rules allows a court, on its motion or through



an application by an interested party remove a receiver appointed under those orders. The Mutunga Rules define an interested party as one with a stake or legal interest, or duty in the proceedings. See Communication Commission of Kenya (supra) Meme -vs- Republic [2004] 1 EA 124, Elton Homes -vs- Davis & others (2019) eKLR

12. Applying the foregoing caselaw and the settled principles, the applicant has already expressed partisanship in its approach to this appeal. It has no identifiable stake, legal interest, and will not be affected by the decision in any manner, either way it goes. Whereas *the constitution* grants the appellant the right to seek legal aid, that by itself does not mean that the only way such legal aid can be extended to him is by the benefactor joining as an interested party in the appeal.
13. The applicant is not joining the suit as an amicus curiae. It has no audience to act as an advocate for the appellant. I find the applicant does not fit and or qualify as an interested party in this appeal. The application is dismissed with no orders as to costs.
14. Orders accordingly.

RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 25TH DAY OF JUNE 2025.

HON. C.K. NZILI

JUDGE, ELC KITALE.

In the presence of:

Court Assistant - Dennis

Mr. Kiarie for appellant present

Miss Arunga for 1st respondent present

Mr. Wanyonyi for 2nd respondent present

