



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE 627 OF 2009

ANTHONY M. NYAMU..... 1ST PLAINTIFF
RIVATEX LIMITED.....2ND PLAINTIFF
GARDEN VIEW VILLAS LIMITED.....3RD PLAINTIFF
KINGAWA HOLDINGS LIMITED.....4TH DEFENDANT

OLIVER JAGALO OGOLA T/A JAGLA

ENTERPRISES.....5TH DEFENDANT

KENNETH STRAVENS

ISAAC KIMANI KANYIGI

JOHN MUNDIA MKUNGE

(suing on behalf of THE LIFE MINISTRY KENYA).....6TH PLAINTIFF

JANE MWANGI.....7TH PLAINTIFF

SIMEON LESRIMA.....8TH PLAINTIFF

MORRIS NJUGUNA MWIRIGI

JOSEPH MWANGI MUNYUA...

ELIZABETH WANGUI all t/a trading as ELIMOLOS

ENTERPRISES.....9TH PLAINTIFF

VERSUS

JOE MURAGE 1ST DEFENDANT

RAPHAEL NGETHE2ND DEFENDANT

JOSEPH CHEGE.....3RD DEFENDANT

(sued as Chairman, Secretary & Treasurer of VET LABS GOLF CLUB respectively)

RULING

1. The plaintiffs in this case filed his suit in Court on the 8/12/09. In the plaint dated 26/11/09 they seek orders of permanent injunction restraining the defendants, their agents or servants from encroaching or trespassing upon or alienating and/or in any other manner whatsoever interfering with the plaintiffs properties as named in the plaint.
2. The plaintiffs also seeks a mandatory injunction against the defendants over the same properties. When the suit was filed the plaintiffs/applicants also filed a chamber summons dated the 26/11/09. It appears from the proceedings in the Court file that the application dated 26/11/09 has not been prosecuted. On the 8/3/10 the Defendants filed an ex parte chamber summons seeking leave to be granted to serve 3rd party Notice upon the Attorney General and on behalf of the Director of Veterinary service as per the attached 3rd party notice. On the 18/7/11 the AG filed a memorandum of appearance as a 3rd party in this matter.
3. The plaintiffs/applicants have now filed the Notice of Motion 10th May 2012 before me under order 2 rule 10 of the Civil Procedure Rule, section 1A, 1B and 3A Civil Procedure Act seeking orders as follows,
 - i. That Kenneth Kimani Gitera, George Ngugi Waireri, Jarian Limited and Mohammed Kaitany be joined to this suit as plaintiffs.
 - ii. That the Court be pleased to order the names of The Attorney General, The Management Committee Veterinary Laboratory Sports club, The Director of Veterinary Services and the Commissioner of Lands to be joined to this suit as defendants.
 - iii. That the Court be pleased to direct that pursuant to the joining of the afore list parties, the plaint be amended and amended copies of summons to enter appearance be served upon the new defendant.
 - iv. That the draft amended plaint annexed to the supporting affidavit be deemed duly amended upon payment of the requisite Court filing fees.
 - v. That the costs of this application be in the cause.

The application is premised on the grounds stated on the face of the application together with the affidavit of Antony Nyamu the 1st applicant in the matter.

4. The main reasons stated are that the intended plaintiffs have a claim against the defendants. That the plaintiffs have been in possession of the suit land until 2009 when the Management Committee Veterinary Laboratory Club evicted them, that the Government during the pending of the suit purported to cancel the plaintiffs titles. That the additional defendants are parties through whom the current parties demolished the plaintiffs developments on the suit land and that the presence of each of the defendants is necessary to enable the Court effectively and completely adjudicate upon and settle all questions involved in the suit. The applicant also states that all the requisite notice of intention to sue have been served upon the Government institutions.

5. Mr. Nyamu in his supporting affidavit explains why they seek to join the new plaintiffs and the proposed defendants. This is at his paragraphs 3,4,5,6 and 7. The notice to the Attorney General for the other government institutions have been exhibited at AMN1

6. I have considered what is before me and I find that the application has merit. The parties the applicants seek to enjoin are parties necessary in this suit to help the Court adjudicate and settle the issues raised in this suit.

7. I therefore grant prayers No. 1, and 2 of the application dated 10/5/12. I further order that pursuant to the joining of the parties stated in prayers 1 & 2 the plaintiff shall amend its plaint within 30 days from the date of this ruling and file the same in Court and pay the requisite Court fees. The amended copies of summons to enter appearance shall be served upon the new defendants as provided under the Civil Procedure Rules (2010). I did not see any amended plaint attached to the supporting affidavit. I therefore decline to grant prayer No. 4. Costs shall be in the cause.

Orders accordingly

Dated and delivered this 13th day of July 2012

**R. OUGO
JUDGE**

In the Presence of:-

..... For the plaintiffs
..... For the defendants
..... Court Clerk