



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT MOMBASA**

**PETITION NO. 9 OF 2020**

**SOFIA KASSIM SALIMU.....PETITIONER**

**AND**

**THE CHIEF LAND REGISTRAR.....1<sup>ST</sup> RESPONDENT**

**THE NATIONAL LAND COMMISSION.....2<sup>ND</sup> RESPONDENT**

**THE KENYA NATIONAL HIGHWAY AUTHORITY.....3<sup>RD</sup> RESPONDENT**

**CHINA CITY CONSTRUCTION GROUP CO. LIMITED .....4<sup>TH</sup> RESPONDENT**

**RULING**

*(Application to amend petition to include additional parties as co-petitioners and interested party; application allowed)*

1. The application before me is that dated 28 September 2020 filed by the petitioner. It is seeking orders to have some parties added as interested party and co-petitioners to this petition. The supporting affidavit is sworn by the petitioner.

2. By way of background, the petitioner filed this petition on 18 March 2020 over the land parcel MN/VI/2398. It is her pleading that the suit land was bequeathed to her grandfather, Kassim Salim Juma (deceased), by her great great grandfather, one Salim Juma Muhunzi through a Wakf, initially managed by her great grandfathers, Juma Bin Salim Bin Juma and Abdulla Bin Salim Bin Juma, and upon their demise, by the Wakf Commissioners. It is her case that the Wakf was settled on 22 March 2009 through which her grandfather inherited the suit property. Upon his demise, his widow, Hadija Kassim Salimu and daughter, Zuhura Kassim Salim, obtained letters of administration over his estate.

3. The suit land was earmarked for compulsory acquisition in order to construct the Mariakani-Mombasa Road with the 2<sup>nd</sup> respondent being responsible for payment of the compensation funds, the 3<sup>rd</sup> respondent being the owner of the project, and the 4<sup>th</sup> respondent the contractor. Some money was indeed deposited into a compensation account, but payment not released to the petitioner, as the respondents were not persuaded that the petitioner had availed the requisite documentation to demonstrate ownership of the suit land. That is what prompted the petitioner to file this petition through which she wants the money released to her. She also wants the Land Registrar (sued as 1<sup>st</sup> respondent) to reconstitute the land parcel file for the suit property and issue her with a search.

4. In this application, she has averred that Kassim Salim Juma (her grandfather) is survived by the following siblings, viz :-

(i) Mwanasiti Kassim

(ii) Mzee Salim Kassim

(iii) Farida Salim Kassim

(iv) Abdillahi Farid Kassim

(v) Aziz Kassim Salim

(vi) Aswan Kassim Salim.

It is them that she wishes to add to this petition as co-petitioner. The petitioner also wishes to add the Wakf Commissioners as interested party.

5. The application is not opposed and I see no reason why I should decline it. The persons mentioned can be enjoined as co-petitioner. With regard to the Wakf Commissioners, I had, in a ruling dated 17 September 2020 directed that the Wakf Commissioners be enjoined as interested party to this suit, so there was really no need for this prayer.

6. Given the above, the petitioner is allowed to amend the petition accordingly, to include the co-petitioners and the Wakf Commissioner as interested party. I make no orders as to costs.

7. Orders accordingly.

**DATED AND DELIVERED THIS 11TH DAY OF NOVEMBER 2020**

**JUSTICE MUNYAO SILA**

**JUDGE, ENVIRONMENT AND LAND COURT**

**AT MOMBASA**