



Gami Properties Limited v Chief Land Registrar & another; National Land Commission & 2 others (Interested Parties) (Environment and Land Case E154 of 2024) [2025] KEELC 4783 (KLR) (13 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4783 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E154 OF 2024**

**TW MURIGI, J
JUNE 13, 2025**

BETWEEN

GAMI PROPERTIES LIMITED PLAINTIFF

AND

CHIEF LAND REGISTRAR 1ST DEFENDANT

THE HONOURABLE ATTORNEY GENERAL 2ND DEFENDANT

AND

THE NATIONAL LAND COMMISSION INTERESTED PARTY

KENYA RAILWAYS CORPORATION INTERESTED PARTY

SUNFLAG PROPERTY INVESTMENT LIMITED INTERESTED PARTY

RULING

1. Before me for determination is the Notice of Motion dated 28th August 2024 in which the Applicant seeks the following orders:-
 - a. That the suit against the 2nd Interested Party/Applicant be struck out and wholly dismissed for failure to disclose any reasonable cause of action against it.
 - b. That the name of the 2nd Interested Party/Applicant be struck out as a party in the suit for having been improperly joined.
 - c. That the costs of this application be granted to the 2nd Interested Party/Applicant.
2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Stanley Gitari, the General Manager Legal Services of the Applicant sworn on even date.



The Applicant's Case

3. The deponent averred that the 2nd Interested Party is the registered proprietor of L.R 209/19708(I.R NO. 125879) pursuant to the judgment delivered on 19th November 2022 in Milimani ELC No. 271 of 2011. He averred that L.R. No. 25805 registered in the name of the 3rd Interested Party was overlapping with L.R No. 209/19708 (I.R 125879) belonging to the 2nd Interested Party.
4. He further averred that the creation of L.R No. 25805 was illegal and un-procedural which rendered the title invalid. He deposed that the court allowed the 2nd Interested Party's counterclaim against the 3rd Interested Party and proceeded to cancel the title for L.R No.25805 registered in the name of the 3rd Interested Party.
5. The deponent averred that the dispute herein stems from the judgment delivered in Milimani ELC Case No. 271 of 2011 where the Plaintiff had sold the impugned property to the 3rd Interested Party. He further averred that the Plaintiff is seeking to be indemnified for the loss arising from the irregular allocation of L.R. No. 25805 by the Defendants.
6. According to the deponent, the 2nd Interested Party has no identifiable stake in the proceedings and hence its joinder will not assist this court to determine the dispute between the parties herein. The deponent asserted that the joinder will prejudice the 2nd Interested Party as it will be forced to incur unnecessary legal expenses.
7. He further asserted that the joinder is an abuse of the court process as the Plaintiff has not disclosed any reasonable cause of action against the 2nd Interested Party/Applicant.

The Respondents Case

8. The Plaintiff filed a replying affidavit of Bharat Ramji in opposition to the application. The deponent admitted that judgment in ELC Case No. 271 of 2011 was delivered in favour of the 2nd Interested Party. He argued that the joinder is not meant to prejudice the 2nd Interested Party but to assist that the court in determining the dispute between the parties herein.
9. According to the deponent, the 2nd Interested Party's successful recovery of the suit property is the basis of the Plaintiff's claim against the Defendants who failed to ensure the sanctity of the Plaintiff's title.
10. The deponent contends that the joinder of the 2nd Interested Party will assist the court in understanding the events that led to the overlapping of the titles and the subsequent loss of the property.
11. He further contended that it is in the interest of justice for the 2nd Interested Party to remain in this suit.
12. The application was canvassed by way of written submission.

The 2nd Interested Party's Submissions

13. The 2nd Interested Party filed its submissions dated 28th February 2025.
14. On behalf of the 2nd Interested Party, Counsel outlined the following issues for the court's determination:-
 - i. Whether the Applicant is properly joined in this suit and whether the joinder will assist the court in the effective determination of the dispute?
 - ii. Whether the Applicant has any identifiable stake, legal interest or duty in the proceedings?



15. On the first issue, Counsel relied on Order 1 Rule 10(2) of the Civil Procedure Rules to submit that the joinder of the 2nd Interested Party was un-procedural as no leave was sought by the Plaintiff.
16. Counsel submitted that the Applicant has no interest in this suit since its title is unrelated to the Plaintiff's claim. Counsel further submitted that the Plaintiff has not disclosed any reasonable cause of action against the 2nd Interested Party. It was argued that the Plaintiff can pursue its claim against the Defendants without involving the 2nd Interested Party.
17. According to Counsel, joinder of an Interested Party to a suit is meant to provide information that may assist the court in determining the dispute between parties. In the matter at hand, Counsel submitted that the joinder is a waste of judicial time as the 2nd Interested Party has no relevant information to assist the court in the determining the dispute between the parties herein. To buttress this argument, Counsel relied on the case of *Meme v Republic* (20040 1 EA 124).
18. Counsel submitted that the joinder of the 2nd Interested Party is an abuse of the court process and will delay the matter and cause the Applicant to incur unnecessary legal expenses.
19. Counsel further submitted that the 2nd Interested Party has no identifiable stake/ duty in the proceedings or any information as to how the Plaintiff acquired its title to the suit property. To buttress this argument, Counsel relied on the case of *Justin Kithinji nderi & 2 others v Director of Public Prosecutions & Another; Njiru Micheni Nthiga (Interested Party)* (2020) eKLR.
20. Concluding his submissions, Counsel urged the court to allow the application as prayed.

The Plaintiff's/respondent's submissions

21. The Plaintiff filed its submissions dated 14th March 2025.
23. On behalf of the Plaintiff, Counsel outlined the following issues for the court's determination: -
 - a) Whether the 2nd Interested Party/Applicant is a necessary party to the suit.
 - b) Whether the suit discloses a reasonable cause of action against the 2nd Interested Party/Applicant.
 - c) Whether joinder of the 2nd Interested Party is prejudicial or an abuse of the court process.
24. On the first issue, Counsel relied on Order 1 Rule 10(2) of the Civil Procedure Rules to submit that the joinder of the 2nd Interested Party is necessary as its prior litigation in *Milimani ELC Case No. 271 of 2011* has a direct impact on the Plaintiff's claim against the Defendants.
25. Counsel further submitted that striking out the 2nd Interested Party from the proceedings herein will lead to an unjust decision which will violate the overriding objective set out in Sections 1A and 1B of the *Civil Procedure Act*.
26. Counsel argued that even though the issue of ownership had been determined in the previous suit, the Defendants liability in creating the overlapping titles had not been determined. Counsel further argued that the joinder of the 2nd Interested Party is necessary as it will assist the court in determining whether the Defendants action enabled the 2nd Interested Party to recover the property. To buttress this argument, Counsel relied on the case of *Civicon Limited v Kivuwatt Limited & 2 others* (2015) eKLR.
27. With regards to the second issue, Counsel submitted that the joinder is not meant to determine liability on the part of the 2nd Interested Party but to establish the factual background regarding the overlapping titles and the Defendants role in the process thereof.



28. Counsel argued that the 2nd Interested Party's successful litigation against the 3rd Interested Party is crucial in understanding how the alleged irregularities by the Defendants enabled the existence of the overlapping titles.
29. On the third issue, Counsel submitted that the 2nd Interested Party's contention that its joinder is prejudicial and an abuse of the court process is baseless since its role was critical in invalidating the plaintiff's title.
30. Concluding his submissions, Counsel urged the court to dismiss the application with costs.

Analysis and Determination

31. Having considered the application, the respective affidavits and the rival submissions, the issue that arises for determination is whether the 2nd Interested Party should be struck out from this suit.
32. The 2nd Interested Party is seeking to have its name struck out from this suit on the grounds that the suit does not disclose a reasonable cause of action against it and that it was improperly joined.
33. The law governing joinder of parties is grounded on Order 1 Rule 10(2) of the Civil Procedure Rules which provides as follows;

“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 to effectually and completely to adjudicate upon or settle all questions involved in the suit, be added.”

34. The Black's Law Dictionary (8th Edition) page 3548 defines an Interested Party as follows;

“a party who has a recognizable stake and therefore a standing in the matter.”

35. The Supreme Court of Kenya in Communications Commission of Kenya and 4 Others ...Vs... Royal Media Services Limited & 7 Others Petition No. 15 OF [2014] eKLR relied on its earlier decision in the MUMO MATEMO case where it defined an Interested Party as follows:

“An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause. Similarly, in the case of Meme Vs. Republic, [2004] 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:-

- (i) Joinder of a person because his presence will result in the complete settlement of all the question involved in the proceedings;
- (ii) Joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;
- (iii) Joinder to prevent a likely course of proliferated litigation.

We ask ourselves the following questions:-

- a. what is the intended party's state and relevance in the proceedings and



b) will the intended interested party suffer any prejudice if denied joinder.”

36. In the case of *Trusted Society of Human Rights Alliance Vs Mumo Matemo & 5 Others* (2015) eKLR the Court held that;

“ An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the court when it is made either way. Such a person feels that his interest will not be well articulated unless he himself or she herself appears in the proceedings and champions his or her cause.”

38. These are persuasive decisions that state the legal position with regards to joinder of Interested Parties.

40. In the matter at hand, the Applicant contends that its joinder to the suit was unprocedural as no leave was sought by the Plaintiff. The Applicant further contended that it has no identifiable stake or legal duty in the proceedings herein.

41. It is not in dispute that the Applicant is the registered proprietor of L.R No. 209/19708 (I.R No. 125879). The Plaintiff is seeking to be indemnified for the loss arising from the irregular allocation of L.R No. 25805 by the Defendants. There is no nexus between the 2nd Interested Party and the subject matter of the suit.

42. As rightly submitted, the joinder was unprocedural as the Plaintiff did not seek leave of this court before joining the 2nd Interested Party to this suit.

43. From the material on record, this court is satisfied that the 2nd Interested Party has demonstrated that it has no identifiable stake in the proceedings and its joinder will not assist the court to effectively determine the dispute between the parties herein.

44. In the end I find that the application dated 28th August 2024 is merited and the same is hereby allowed in the following terms:-

a) The suit against the 2nd Interested Party be and is hereby struck out.

b) The 2nd Interested Party is awarded costs of the application.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 13TH DAY OF JUNE 2025.

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HON. T. MURIGI

JUDGE

In the presence of: -

Court assistant – Ahmed

Tirop for the Plaintiff/Respondent

Mugi the 2nd Interested Party

