



REPUBLIC OF KENYA



**Korir v Barmalel & 3 others (Environment and Land Case E005 of 2023)
[2025] KEELC 6445 (KLR) (30 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6445 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KILGORIS
ENVIRONMENT AND LAND CASE E005 OF 2023
MN MWANYALE, J
SEPTEMBER 30, 2025**

BETWEEN

MARGARET CHEPKORIR KORIR PLAINTIFF

AND

ISAIAH KIPKOECH BARMALEL 1ST DEFENDANT

ENOCK KIPKURUI BARMALEL 2ND DEFENDANT

NELSON KIBET BARMALEL 3RD DEFENDANT

PAUL KIPKEMOI BARMALEL 4TH DEFENDANT

RULING

1. Before court for determination is the Chamber Summons Application dated 17.03.2025 seeking orders for issuance of a 3rd party Notice to Leah Chepkirui Barmalel and the Land Registrar Kilgoris.
2. The Application was filed by the Defendants and served upon the plaintiff who did not respond to it and consequently it was unopposed.
3. Nonetheless the court ordered that the application be argued orally on its merits and same proceeded on 30.06.2025.
4. The grounds in support of the application is interalia
 - i. The mother title in the matter Narok/Transmara/18 was registered in the name of the late Paul Tamason Barmalel who died intestate and a certificate of grant issued on 27.08.1997.
 - ii. That the 1st Intended third party Leah Chepkirui Barmalel was according to the Grant to hold a portion measuring 125 acres for herself and all her children in Narok/Kapune/18.



- iii. That the said Leah Chepkirui Barmalel in conjunction with the 2nd intended 3rd party the Land Registrar Kilgoris, unlawfully transferred and subdivided the said property to herself excluding her children who were beneficiaries and sold 90% of the Estate.
 - iv. That it is necessary to join Leah Chepkirui Barmalel and Land Registrar as third parties to determine liability and the defendants claim of indemnity.
5. The application was brought under the provisions of order/Rule 14 and 15 of the Civil Procedure Rules.
 6. A draft 3rd party Notice was annexed to the supporting affidavit in support of the Application sworn by Enock Kipkorir Barmalel, in which claim of indemnity was made against the first intended 3rd party for any amount which may be adjudged against the defendants in favour of the plaintiff.
 7. As against the 2nd intended third party, the claim made was the failure to verify ownership, illegal subdivision and registration and failure to maintain proper records.
Equally a certificate of Grant in relation to the Estate of Paul Tamason Barmalel in succession Cause NO. 2/1998 before the High Court at Eldoret was annexed to the supporting affidavit.
 8. Mr. Nyamari learned counsel for the Defendants/Applicants argued the application; on 30.06.2025.
 9. Upon consideration of the Application, the affidavit and submissions, upon also consideration of the applicable law, Order 1 Rule 14 and 15 of the Civil Procedure Rules allows for issuance of a 3rd party Notice, if a Defendant claims contribution or indemnity from a party not already in the suit.
 10. Paragraph 6 and 12 of the Defendants' Amended Defence, alleged the fraud pleaded in the 3rd party Notice, and give Notice of the intentions to issue 3rd party Notice to the Administrators of the Estate of the late Paul Tamason Barmalel, who in the certificate of Grant annexed to the supporting affidavit is the first intended 3rd party.
 11. In their Amended defence and counter-claim, the Defendants now plaintiff introduce Leah Chepkurui Barmalel as the 1st Defendant and the Land Registrar as the 3rd Defendant.
 12. The said Amendments were made on 3rd November 2023, and the Amended defence and counter-claim sought reliefs against Leah Chepkurui Barmalel and the Land Registrars who are already parties to the suit.
 13. The issuance of the 3rd party Notice vide this application is not therefore necessary since the counter-claim has already introduce the 3rd party as defendants in the suit.
 14. It follows therefrom that the application as filed offends Order 15 (1) of the Civil Procedure Rules, as it seeks to issue a 3rd party Notice, to a party already in the suit by way of counter-claim and it therefore lacks merit and the same is hereby dismissed.
 15. Costs in the cause.

DATED AT KILGORIS THIS 30TH DAY OF SEPTEMBER, 2025.

HON. M.N MWANYALE

JUDGE

In the presence of

CA – Emmanuel/Sylvia/Sandra



Mr. Nyamari for the Defendant/Applicant

Mr. Rana for the 3rd Defendant in the counter-claim

Mr. Rono for the Plaintiff

