



- b) *Upon being enjoined, the Intended Creditors be granted leave to participate in the proceedings and to be heard in all matters pertaining to the Insolvency Petition.*
- c) *The costs of this application be in the cause.*

2. The Application was supported by the Affidavit of **Solomon Gitundu** sworn on 21<sup>st</sup> May 2025. He stated that the Applicants, as bona fide creditors, seek to be joined in the matter, having supplied goods on credit that remain unpaid. The 1st Applicant is owed Kshs. 7,657,507 for supplies made between November 2022 and January 2023, while the 2nd Applicant is owed Kshs. 389,000 for goods supplied in January 2025. Despite several demands, the Debtor has failed to settle these debts.
3. The Applicants further argued that they have a genuine and substantial interest in the insolvency proceedings since they are directly affected creditors. In fact, the 1st Applicant has already filed a civil suit in the Milimani Magistrates Commercial Court over the outstanding sums. Pursuant to Court directions issued on 15<sup>th</sup> May 2025, the Applicants

have now filed this application for joinder, urging that it is just and equitable for them to be enjoined so they may be heard and protect their interests in the matter.

4. Notably, there was no response to this Application.

### **Issues for determination**

5. The Court has considered the Application and the sole issue for determination is framed as follows;

*a) Whether the Applicants should be enjoined in the insolvency proceedings as Creditors.*

### **Analysis**

6. The Court in **Kenya Medical Laboratory Technicians and Technologists Board & 6 others v Attorney General & 4 others [2017] eKLR**, explained when an interested party ought to be enjoined in a proceeding as follows: -

***“A person is legally interested in the proceedings only if he can say that it may lead to a result that will affect him legally that is by curtailing his legal rights. In determining whether or not an applicant has a legal interest in the subject matter of an action sufficient to entitle him to be***

***joined as an interested party the true test lies not so much in an analysis of what are the constituents of the applicant's rights, but rather in what would be the result on the subject-matter of the action if those rights could be established. It is apparent that a party claiming to be enjoined in proceedings must have an interest in the pending litigation, but the interest must be legal, identifiable or demonstrate a duty”.***

7. Further, in the case of **Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 others [2014] eKLR** the Supreme Court of Kenya held that;

***“(22) In determining whether the applicant should be admitted into these proceedings as an Interested Party we are guided by this Court’s Ruling in the Mumo Matemo case where the Court (at paragraphs 14 and 18) held: “[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...”***

8. Similarly, in the case of ***Meme v. Republic, [2004] 1 EA 124***, the 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 questions 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.”***

9. It is the Court’s view that the Applicants, having issued several demands to the Debtor and the Debtor failing to settle the outstanding debts, it is only just and in the interest of justice that the Applicants be enjoined in these proceedings. By enjoining the Applicants to the suit, the filing of several suits will be avoided as the issues are against a common debtor which can be settled in the same proceedings.

10. As to costs, the fair order is let the costs be in the cause.

### **Determination**

11. The intended Creditors' application by way of a Notice of Motion dated 21st May 2025 is allowed as follows;

a) **THAT WAKULIMA FLOUR MILLERS LIMITED** and **SOLO WORLDWIDE INTERENTERPRISES** be and are **HEREBY** enjoined in the proceedings as Creditors.

b) **THAT** Upon being enjoined, the Intended Creditors be and re **HEREBY** granted leave to participate in the proceedings and to be heard in all matters pertaining to the Insolvency Petition.

c) The costs of this application be in the cause.

12. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MILIMANI THIS  
09TH DAY OF OCTOBER, 2025.**

**NJOROGE BENJAMIN K.**

**JUDGE**

In the presence of;

N/A for the Applicant.

N/A for the Respondent.

Mr. Peter Wabwire - Court Assistant.