



Bao Gold Hill Kenya Limited v Attorney General & 2 others; Tianjin Hongfengyuan Trading Co Ltd (Proposed Interested Party) (Environment and Land Petition E002 of 2025) [2025] KEELC 7037 (KLR) (16 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7037 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAROK
ENVIRONMENT AND LAND PETITION E002 OF 2025
LN GACHERU, J
OCTOBER 16, 2025**

BETWEEN

BAO GOLD HILL KENYA LIMITED PETITIONER

AND

THE HON ATTORNEY GENERAL 1ST RESPONDENT

THE CABINET SECRETARY, MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS 2ND RESPONDENT

THE INSPECTOR GENERAL, NATIONAL POLICE SERVICE 3RD RESPONDENT

AND

TIANJIN HONGFENGYUAN TRADING CO LTD PROPOSED INTERESTED PARTY

RULING

1. The matter for determination is the Notice of Motion Application dated 29th September 2025, brought under Article 159(2)(d) of *the Constitution*, Section 1A,1B and 3A of the *Civil Procedure Act*, Order 10 rule 1, Order 51 rule 1 of the Civil Procedure Rules, wherein the Applicant Tianjin Hongfengyuan Trading Co. Ltd, has sought to be joined in the Petition as an interested party.
2. Further, it has sought for leave to be granted to the Petitioner to amend the Petition dated 8th August 2025, to include Tianjin Hongfengyuan Trading Co. ltd as an interested party in these proceedings; and that costs and incidentals of the application be in the cause.
3. The Application is supported by the grounds set out on the face of the Application and on the Supporting Affidavit of Li Zongfeng.



4. Among the grounds in support of the Application are;
 - i. Tianjin Hongfengyuan Trading Co. Ltd, the proposed Interested party, has a beneficial interest in Bao Gold Hill Kenya Limited, pursuant to the Share Transfer Agreement dated 5th February 2020. Its joinder is necessary to protect its property rights and to enable the court to effectually and completely determine the real questions in controversy.
 - ii. That the petition was filed without involving the proposed interested party, thereby exposing it to grave prejudice in matters directly affecting its proprietary and commercial interests.
 - iii. That the so called mining “Licence” relied upon by the Petitioner is a nullity, irregularly bearing the name of Li Zongfeng, and has been used by Mr. Wang Weibo to defraud innocent investors. Its use is a malicious attempt to malign the proposed interest party
 - iv. That the participation of the proposed interested party is essential to assist the court in exposing the fraud, clarifying the true position on shareholding, and ensuring a just determination of the matter.

5. In his supporting Affidavit, Li Zongfeng, a Director of Tianjin Hongfeng Trading Co. Ltd, averred that;
 - a. Pursuant to a Share Transfer Agreement dated 5th February 2020, Tianjin Hongfengyuan Trading Co. Ltd has a beneficial interest in the Petitioner, Bao Gold Hill Kenya Limited. “LZ-1”
 - b. Despite having a beneficial interest in the Petitioner, his company was never consulted or involved in the resolution leading to the filing of the present Petition.
 - c. The Petition and the subsequent Amended Petition expose his company to grave prejudice, as they directly touch on their proprietary rights in Bao Gold Hill Kenya Limited.
 - d. The petition relies on a purported mining “license” irregularly bearing the name of the Applicant Li Zongfeng, which he categorically states is a forgery, a nullity, and a fraudulent document. “LZ-2”.
 - e. The said “license” has been deployed by Mr. Wang Weibo to defraud investors and to malign his name and that of the company, an act that is both malicious and criminal.
 - f. Further, the Petitioner deliberately concealed the existence of parallel proceedings touching on the company’s shareholding and directorship, namely; Narok HCCC E007/2025, “LZ-3a”, An appeal pending before the Nakuru Court of Appeal “LZ-3b”
 - g. Tianjin Hongfengyuan Trading Co. Ltd possesses material evidence and knowledge of the affairs of Bao Gold Hill Kenya Limited, which will assist this court in unearthing the fraud and ensuring a just determination of the matter.
 - h. Unless Tianjin Hongfengyuan Trading Co. Ltd is joined to these proceedings as an interested Party, it risks being condemned unheard on matters that directly affect its proprietary and commercial rights.
 - i. This application has been brought in good faith and without delay, and it is only fair, just, and in keeping with Article 159 of *the Constitution* that the application be allowed.



6. The Application for joinder is opposed through the Grounds of Opposition dated 6th October 2025, and the Replying Affidavit of QIU CHENGFU, the General Manager of the Petitioner who averred that after receiving advise from his advocate on record it was his contention that;
- a. The petitioner herein challenges the actions and omissions of state agencies, specifically the arbitrary removal of the petitioner’s mining licence from the cadastre without due process, the imposition of an unlawful and militarized police blockade on its petition centres on alleged violations of the Petitioner’s rights under Article 40,47, 49 and 50 of *the Constitution* of Kenya, 2010, and a breach of statutory duties under the *Mining Act* and the *Fair Administrative Action Act*.
 - b. That the gravamen of the Petition concerns the relationship between the Petitioner, a corporate entity duly incorporated in Kenya and consequently a person recognized under Article 260 of *the Constitution* of Kenya, and the Respondents as state organs. Therefore, this is purely a public law matter pertaining to the exercise, or more accurately, the alleged misuse and abuse of public power by the Respondents.
 - c. That the Petitioner verily believe that the application for joinder by Tianjin Hongfengyuan Trading Co. Ltd seeks to inject a private, commercial and internal corporate dispute into a public law constitutional petition. Also that the proposed interested party is attempting to use this court as a forum to ventilate a private shareholder grievance that is wholly extrinsic to the core constitutional questions this petition seeks to resolve.
 - d. That the issues for determination in this Petition are whether the Respondents violated the Petitioner’s constitutional rights. More particularly;The question of who the ultimate shareholders of the Petitioner are has no bearing whatsoever on whether the state acted lawfully when it removed the mining licence from the cadastre without a Section 173 notice, or when it deployed police to blockade a lawful operation without a court order.The interest of the proposed party, if any, is completely overshadowed by the primary constitutional contest between the Petitioner and the state.
 - e. That the Petitioner’s advocates conducted an official search at the Registrar of Companies and the official register of members for Bao Gold Hill Kenya Limited, as of 6th October 2025, is clear and unequivocal, on two shareholders were;BULLETSWeibo Wang with 10 ordinary sharesHunan Shuangfeng Baojinshan Mining Co. Ltd with 990 ordinary shares “QCF-2”.
 - f. The name “Tianjin Hongfengyuan Trading Co. Ltd” does not appear anywhere in the official register of members. This is a matter of public record that can be verified by this court. The applicant is, in law, a stranger to the shareholding of the company. They may have a contractual claim against the purported transferor of the shares, but they have no direct legal equitable interest in the company itself as a shareholder.
 - g. Consequently, the Applicant’s that it is a “lawful shareholder” is falsehood. They are not a shareholder at all, lawful or otherwise. They are at best a prospective purchaser with an unperfected claim, and at worst, a party to a disputed contract.
 - h. That the alleged agreement itself appears to have been repudiated and abandoned by the conduct of the parties. The agreement stipulated conditions precedent, including the payment of substantial sums by Tianjin Hongfengyuan. The deponent does not provide any evidence that these payments were ever made.



- i. That the foundational premise of the joinder application that the proposed party has a “beneficial interest” in the Petitioner is factually and legally untenable.
 - j. The mining licence, the premises, the equipment and the business operations that are the subject of this petition are assets of the legal entity known as Bao Gold Hill Kenya Limited. The Applicant, not being a member of this legal entity, has no proprietary right or interest in these assets. Their attempt to claim such an interest through a back door, using a constitutional petition is legally unsound.
 - k. Ultimately, the applicant not being a director or a member of the company (petitioner), has no legal right whatsoever to be “involved” or “consulted” in the operational or litigation decisions of Bao Gold Hill Kenya Limited. The suggestion that we were required to seek their permission or involvement betrays the principles of corporate personhood and governance, as a company is a distinct legal person, and its decisions are made by its organs.
 - l. The proposed Interested Party has presented no credible evidence to substantiate its allegations of forgery. Moreover, that the Applicant need not be joined as a party to proffer any evidence it may claim to possess, it can be called as witness by the Respondents, who are already properly sued in this petition.
 - m. The allegation of fraud is a tactical and malicious ploy to poison the mind of the court against the Petitioner and to create a smokescreen that obscures the real constitutional violations. It is an attempt to criminalise a commercial dispute.
 - n. That the applicant will not be affected in any way by the outcome of this petition. It is commercial claims against other parties remain intact and can be pursued in the appropriate forum.
7. In the Grounds of Opposition, the Petitioner averred;
- a. The application is misconceived, incompetent and an abuse of the process of the court in that in light of the ruling of the court Justice C. M. Kariuki, on 15th July 2025 in Narok HCCC case E007 of 2025 Tianjin Hongfengyuan Trading Co. Ltd v Hunan Shuangfeng Baoguanjin Mining Co. Ltd. Wang Weibo, Bao Gold Hill Kenya Limited “ALZ 3(a)” striking out the entire suit for want of jurisdiction pursuant to Article 10 of the Equity Transfer Agreement.
 - b. That the Applicant’s Motion is an attempt to re-litigate the issues and matters already ruled on in Narok HCCC case E007 of 2025 Tianjin Hongfengyuan Trading Co. Ltd. v Hunan Shuangfeng Baoguanjin Mining Co. Ltd. The principle of finality bars re-litigation of the same issues between the same parties or those claiming under them.
 - c. The issues raised by an Applicant are res judicata under Section 7 of the *Civil Procedure Act*, having been conclusively determined in Narok HCCC No. E007 of 2025. Tianjin Hongfengyuan Trading Co. Ltd v Hunana Shuangfeng Baoguanjin Mining Co. Ltd, Wang Weibo, Bao Gold Hill Kenya Limited.
8. The Petitioner urged the court to dismiss the Notice of Motion Application for joinder dated 29th September 2025, with costs for being frivolous, vexatious and an abuse of the court process.
9. This Application was canvassed through written submissions. The proposed Interested Party through Ham & Hamsley Advocates filed its submissions dated 8th October 2025, and framed two issues for determination;



- i. Whether the joinder of the proposed interested party is necessary to protect its property rights;
 - ii. Whether the proposed interested party is necessary to enable the court to effectually and completely determine the real questions in controversy.
10. The proposed/Interested party relied on the case of *Muruatetu & Another v R; Kenya National Commission on Human Rights & 2 others (Interested Parties) ; Death Penalty Project(Intended Amicus Curiae) 2016) KESC 12 (KLR)*, where the Supreme Court held;
- “Enjoinment is not as of right, but is at the discretion of the Court;’ hence, sufficient grounds must be laid before the Court, on the basis of the following elements; The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the court. It must also be clearly outlined and not something remote. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the court, and demonstrate the relevance of those submissions. it should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the court.” (emphasis is ours)
11. It was its further submissions that the beneficial interest in the Petitioner/ Respondent gives the proposed interested party a personal stake in these proceedings as its interests in the Petitioner will be affected by the outcome of this case.
12. It was its further submissions that the impugned mining licence which bears the name of Li Zongfeng is invalid document which has been used by the Petitioner /Respondent as a vehicle for fraud used to dupe investors out of their money, and as such will attract negative consequences on the proposed interested party in the form of civil proceedings.
13. Reliance was sought in the case of *Attorney General v David Ndii& 73 Others(2021) KESC 17 (KLR)*, where the Supreme Court quoting the case of *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others* 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...”
14. The Petitioner/Respondent in its opposition to the Application filed its submissions dated 8th October 2025, and raised one issue for determination, being whether the application has met the threshold for joinder of the Interested party.
15. Reliance was placed on Rule 7 of *the Constitution* (Protection of Rights and Fundamental Freedoms) Practice and Protection Rules 2013(Mutunga rules) which underpins the joinder of persons as interested parties. Further Order 1 Rule 10(2) of the Civil Procedure Rules set out the parameters for joinder which allows for joinder of a person who ought to have been joined or whose presence before the court is necessary to enable the court to effectually and completely adjudicate upon and settle all questions involved in the suit.



16. Further reliance was sought in the decision of the Supreme Court in *Muruatetu & Another v Republic; Kenya National Commission on Human Rights & 2 Others (Supra)*, wherein the court held;
- “One must move the court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the court; hence, sufficient grounds must be laid before the court, on the basis of the following elements:
- i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
 - ii. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the court. It must also be clearly outlined and not something remote.
 - iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the court”
17. Further, it was submitted that the Applicant/proposed interested party not being a Director or member of the Petitioner/company has no legal right to be involved or consulted in the operational or litigation decision of Bao Gold Hill Kenya Ltd.
18. It was submitted that the suggestion that the Petitioner was required to seek permission or involvement betrays the principles of corporate personhood and governance which have now been settled in the case of *Salomon v Salomon & Co Ltd* (1896) UKHL1(1871) AC 22, where it was held a company is distinct legal person , and its decisions are made by its organs. That the Applicant herein features in neither.
19. It was its further submissions that the proposed party has no evidence to offer on these matters, and therefore the Applicant need not be joined as a party to proffer any evidence it may claim to have, it can be called as a witness by the Respondents, who are already properly sued in this Petition.
20. Ultimately, the Petitioner urged the court to dismiss the instant Application dated 29th September 2025, with costs for being frivolous, vexatious and an abuse of the court process.
21. This court has considered the instant Application and the sole issue for determination is whether the Proposed Interested party should be joined herein, and the Petition be amended accordingly to include it as an Interested Party.
22. This is a Constitution Petition, and the provisions of the *Civil Procedure Act* and Rules do not Apply. The court will rely on the Mutunga Rules, the Articles of *the Constitution* and the decided cases. The Parties herein all relied on the Supreme Court decision in *Muruatetu & Another v R(supra)*, which quoted the decision in the case of *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 others SC Pet.(Application) No 12 of 2013*.
23. As submitted by the Petitioner/ Respondent, Rule 7 of the Mutunga Rules, on Protection of Rights and Fundamental Freedoms (2013), deals with the joinder of interested parties in legal proceedings. The said Rule allows any person to apply to the court, either orally or in writing, to be joined as an interested party, and also, the court has the power to join an interested party on its own motion.



24. Therefore, the said Rule grants Court's discretion, in joinder of any interested party to the proceedings, and the court can join such an interested party on its own motion, even without any application by any party.
25. Further, Rule 2 of the said Mutunga Rules defines an interested party as a "person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court". This interest must be clear, identifiable, and not merely peripheral to the case.
26. The Conditions for joinder are that; The applicants must specify the personal interest or stake they have in the case; The applicants must demonstrate the prejudice they would suffer if they were not joined to the suit; The applicant must outline the arguments and submissions they intend to make and show that they are not merely a duplication of what other parties are already presenting.
27. In its Application, the proposed Interested Party alleged that it is a lawful shareholder of Bao Gold Hill Kenya Ltd, pursuant to a Share holding transfer agreement dated 5th February 2020. It also averred that the mining licence used by the Petitioner irregularly bears the name of Li Zongfeng, a Director of the proposed Interested Party, and therefore the interested party is a necessary party and has identifiable stake in this Petition.
28. The Petitioner on its part has opposed this joinder of the Interested party and has alleged that this joinder is an attempt to re-litigate issues raised in Narok HCCC NO. E007 OF 2025, Tianjin Hongfengyuan Trading Co, Ltd v Hunan Shuangfeng Baoguanjin Mining Co Ltd , Wang Weibo , Bao Gold Hill Kenya Ltd, and thus the application is res- judicata.
29. The Petitioner also submitted that the proposed interested Party has not met the threshold for joinder as an interested party as established in the Muruatetu case (Supra).
30. The Petitioner has alleged that the Proposed interested party is trying to re litigate matters that were already decided in Narok HCC NO E007 OF 2025. This court has not had the benefit of seeing those proceedings, and cannot find and hold that the application herein is resjudicata
31. However, the court has considered the definition of an Interested Party above, Rule 7 of Mutunga Rules on the joinder of interested party, and the fact that the court has discretion to allow joinder of an interested party on its motion, and the fact that the Petition herein is challenging the alleged arbitrary actions of the Respondents of removal of the Petitioner mining licence, and the fact that the proposed interested party has alleged that the purported mining licence irregularly bears the name of LI Zongfeng , the Director of the Proposed Interested Party, and it is this court's considered view that the Proposed Interested Party has demonstrated that it has an identifiable stake, and if not joined in the suit, the said Proposed Interested Party may suffer prejudice.
32. Having considered the instant Application, the provisions of *the Constitution*, the Mutunga Rules, the various decided cases and the rival written submissions this court finds and holds that the proposed interested party has an identifiable interest in this Petition and it would be prudent to join it as an Interested Party herein.
33. For the above reasons, the court allows the Notice of Motion Application dated 29th September 2025, by the Proposed Interested Party and the said Application is allowed in terms of prayers Nos 2 and 3, with costs being in the cause.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAROK THIS 16TH DAY OF OCTOBER 2025.



L. GACHERU

JUDGE

Delivered on line in the presence of;

Elijah Meyoki - Court Assistant

Mr. Odiwour holding brief for Mr. Ochieng Oduol for the Petitioner/Respondent

N/A for the other Respondents

Mr. Langat for the Proposed Interested Party/Applicant

L. GACHERU

JUDGE

16/10/2025

