



REPUBLIC OF KENYA



Republic & another v County Land Registrar; Njoka (Ex parte Applicant) (Environment and Land Judicial Review Case E001 of 2022) [2025] KEELC 6673 (KLR) (2 October 2025) (Ruling)

Neutral citation: [2025] KEELC 6673 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E001 OF 2022**

**A OMBWAYO, J
OCTOBER 2, 2025**

BETWEEN

REPUBLIC 1ST APPLICANT

LUCY WANJIRU NJOKA 2ND APPLICANT

AND

THE COUNTY LAND REGISTRAR RESPONDENT

AND

LUCY WANJIRU NJOKA EX PARTE APPLICANT

RULING

1. Teresia Njeri Njoka, Margaret Damat and Lucy Wanjiru Njoka and Joseph Njuguna Njoka in their capacity as legal representatives of the estate of Philip Njoka Kamau seek orders that they be enjoined in this matter as the interested parties and be granted leave to participate and to be heard in those proceedings before any final judgment.
2. The application is based on grounds that the hearing of this matter proceeded in the absence of and without the involvement of the Estate of Phillip Njoka Kamau (Deceased), whose Administrators and Legal Representatives are the Applicants. The subject matter of this suit is land parcel Title No.
3. Dundori/Lanet Block 5/216 (Kiamunyeke "A"), which belongs to the Estate of Phillip Njoka Kamau (Deceased), and which he by his Last Will and Testament dated 13th June 2009 bequeathed to one of his widows Lucy Wanjiru Njoka, the Ex Parte Applicant herein. She instituted this suit in her personal capacity as the beneficiary/legatee of the said land, and that was long before she was appointed as one of the four (4) Administrators of the Estate of Phillip Njoka Kamau (Deceased).
4. According to the applicants, it is now imperative that the Estate of Phillip Njoka Kamau (Deceased) be given an opportunity to be heard herein, before any final determination can be rendered herein.



The said suit land is also the subject of another pending suit, being Nakuru High Court Miscellaneous Suit No. 33 of 2016, between Elizabeth Wanjiku Njoka as legal Representative of the Estate of Alice Kahaki Njoka (Deceased) on the one part, and the Estate of Phillip Njoka Kamau (Deceased) and the Applicants herein on the other part. Elizabeth Wanjiku Njoka has previously successfully applied for leave to participate in these proceedings and to be heard herein. She was granted that leave vide a Ruling herein dated 2nd May 2024.

5. The application is opposed by the interested party on the grounds that the notice of motion is invalid and misconceived as the application was commenced by Lucy Wanjiru Njoka who is one of the legal representative appointed as such on 29th September 2023 and therefore she is acting on behalf of other family members. That the application is made in bad faith as the family division of the High Court Nakuru had made a decision that the ownership of Dundori//Lanet Block 5/216 is to be
6. determined by the family division of the High Court and not the Environment and Land Court. That therefore the application is a contravention of a court order and therefore null and void.
7. The applicants have been aware of this Judicial Review and have been served by Elizabeth Wanjiku Njoka with her applications and submissions herein but have not applied for leave to be enjoined as interested parties and have not proffered any cause for not having applied to be enjoined as interested parties now for more than two years. The application is equally opposed vide the affidavit of Elizabeth Wanjiku Njoka.
8. I have considered the application and do find that the same is premised on Order 53 Rule 3 (2) of the Civil Procedure Rules read with order 1 rule 8(3) of the said rules. The applicant has further invoked the Oxygen Law thus section 1A, 1B and 3A of the [Civil Procedure Act](#) Cap 21 Laws of Kenya.
9. The applicant have not demonstrated a recognizable stake in the matter different from the one of Lucy Wanjiru Njoka. Being the joint administrators and legal representatives of the estate of Philip Njoka Kamau via a grant of the letter of administration intestate dated 18th October 2023, they can litigate through the exparte applicant.
10. The provisions of Order 53 Rule 3(2) are clear that any person directly affected by the motion shall be served. The words employed in that rule are as follows, verbatim:- “The notice shall be served on all persons directly affected, and where it relates to any proceedings in or before a court, and the object is either to compel the court or an officer thereof to do any action in relation to the proceedings or to quash them or any order made therein, the notice of motion shall be served on the presiding officer of the court and on all parties to the proceedings.”
11. [The Constitution](#) of Kenya 2010 provides that every person is entitled to be given a hearing in accordance with the rules of natural justice before a matter that affects him is determined. Article 50: provides as follows, “(1)Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.”
12. This court states that for one to be enjoined to a judicial review suit as interested party, such person must demonstrate that it is necessary to be enjoined in the suit assist the court settle all questions involved in the matter. It is not enough for one to merely demonstrate a general interest in the suit. In this case, the applicants who are legal representatives of the estate of Philip Njoka Kamau state that the suit property is property of the estate of Philip Njoka Kamau which was bequeathed to one of his widows Lucy Waniju Njoka the exparte applicant herein in his last will and testament dated 13th June, 2009. Though this fact is not controverted, Lucy Wanjiru Njoka is the experte applicant and therefore



cannot also be an interested party as sought by the applicants. The other applicants in the application for joinder are represented by Lucy Wanjiru Njoka who is the exparte applicant and therefore cannot be enjoined in this Judicial Review as they will not add value more than the exparte applicant. I do find that the applicants have not demonstrated that they have any particular interest in the Judicial Review Suit or that they will assist the court in any manner in the determination of the dispute. The application is therefore dismissed accordingly. Costs to the respondents.

SIGNED BY/FOR:

HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.

NAKURU ENVIRONMENT AND LAND COURT

ENVIRONMENT AND LAND COURT

DATE: 2025-10-02 11:31:45

Doc IDENTITY: 1834668240778371552721912027 Tracking Number:OOJQQD2025

