



Kihika (Suing in Her Own Capacity and also as the Administrator of the Estate of Mr Reginald Kihika Kamau - Deceased) v Embakasi Ranching Limited & 2 others (Environment and Land Case E172 of 2022) [2025] KEELC 7358 (KLR) (24 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7358 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E172 OF 2022**

**TW MURIGI, J
OCTOBER 24, 2025**

BETWEEN

GRACE NJERI KHIKA (SUING IN HER OWN CAPACITY AND ALSO AS THE ADMINISTRATOR OF THE ESTATE OF MR REGINALD KHIKA KAMAU - DECEASED) PLAINTIFF

AND

EMBAKASI RANCHING LIMITED DEFENDANT

AND

PETER MURITHI MACHARIA 1ST PROPOSED DEFENDANT

DAVID MACHARIA MURITHI 2ND PROPOSED DEFENDANT

RULING

1. This ruling is in respect of a Notice of Motion dated 27th of May 2025 brought under Order 1 Rule 10(2) of the Civil Procedure Rules, in which the Applicants seek the following orders: -
 1. Spent.
 2. That this Honourable Court be pleased to enjoin the Applicants as the 2nd and 3rd Defendants in this matter.
 3. That the Honourable Court be pleased to allow the 2nd and 3rd Defendants/Applicants to file pleadings and any other necessary documents in the ongoing proceedings.
 4. That the costs of this application be provided for.
2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Peter Murithi Macharia sworn on even date.



The Applicant's Case

3. The deponent averred that they purchased the suit properties from the 1st Defendant between 2006 and 2008 and have maintained possession since then. He argued that their joinder will assist the Court in making a fair decision and in safeguarding their interests in the suit property. He further argued that the Plaintiff filed the suit against the Defendant without their involvement.

The Respondent's Case

4. The Plaintiff/Respondent filed a replying affidavit dated 23rd June 2025 in opposition to the application. She argued that the application is a mischievous attempt to delay the hearing of this matter. She asserted that she has no claim against the Applicants and suggested that they be joined as Interested Parties.
5. The application was canvassed by way of written submissions.

The Applicants Submissions

6. The Applicants filed their submissions dated 10th July 2025.
On behalf of the Applicants, Counsel reiterated the contents of the supporting affidavit in support of his submission.

The Plaintiff/respondent's Submissions

7. The Respondent filed her submissions dated 4th September 2025.
8. On behalf of the Plaintiff, Counsel submitted that the primary issue in this matter pertains to double allocation and the 1st Defendant's failure to discharge its contractual and fiduciary obligations.
9. Counsel further submitted that the Plaintiff's claim is based on her membership rights with the 1st Defendant and not on a private contract with the Applicants. Counsel argued that the Applicants are strangers to the Plaintiffs' shareholding rights and the allocation process.
10. It was argued that the Applicants' titles originate from the allocations made by the 1st Defendant, and therefore, the dispute concerns whether the 1st Defendant unlawfully or irregularly allocated land already owned by the Plaintiff to third parties.
11. Counsel maintained that the Applicants should be joined to the proceedings as Interested Parties. To support his submissions, Counsel relied on the case of Joseph Njau v Robert Maina Chege and others.

Analysis And Determination

12. Having considered the application, affidavits, and the rival submissions, the only issue that arises for determination is whether the application for joinder is merited.
13. The law governing the 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.”

14. The Applicants are seeking to be joined in the proceedings as Defendants. They argued that their joinder is necessary because they are the registered owners of the suit properties.
15. The Respondent, on the other hand, argued that joinder of the Applicants would not assist the court because the dispute is solely between the Plaintiff and the 1st Defendant.
16. The Plaintiff instituted this suit against the Defendant vide a Plaint dated 13th May 2022 seeking the following orders:-
 - a) The Plaintiff prays that there be a declaration that she is the lawful allottee and thus the exclusive owner of Plot Numbers P32454 and P3255 and now 105/4444 and 105/4449 respectively situated at Embakasi, Embakasi Ranching Company Limited Farm.
 - b) That a permanent injunction do issue against the Defendant and its agent, servants and/or employees from the Plaintiff selling, dealing with, alienating or destroying and, or howsoever interfering with Plot Numbers P3254 and P3255 and now 105/4444 and 105/4449 that belong to the Plaintiff.
 - c) That the Defendant be ordered to facilitate the issuance and processing of the certificate of title as had been envisaged at the time of allotment for Plot No. P3254 and P3255 now known as 105/4444 and 105/4449.
 - d) Cancellation of any titles issued for 105/4444 and 105/4449.
 - e) Costs and interest.
17. The Plaintiff maintained that she has no claim against the Applicants. Based on the material placed before me, I find that the Applicants have demonstrated that they have an identifiable stake in the proceedings herein.
18. The upshot of the foregoing is that the application dated 27th of May 2025 succeeds in the following terms:-
 - a) The 2nd and 3rd Applicants are hereby joined in the proceedings as Interested Parties.
 - b) Each party to bear its own costs.

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HON. T. MURIGI

JUDGE

RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS THIS 24TH DAY OF OCTOBER, 2025.

IN THE PRESENCE OF: --

Ruiru for the Applicant

Ms Tale for the Plaintiff/Respondent

Njeri holding brief for Macharia for the 1st Defendant

Ahmed – Court Assistant

