



Kariuki & 2 others v Kariuki; Muigai (Proposed Interested Party) (Environment and Land Case E097 of 2024) [2025] KEELC 7173 (KLR) (14 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7173 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND CASE E097 OF 2024**

**JA MOGENI, J
OCTOBER 14, 2025**

BETWEEN

**PETER NGURE KARIUKI 1ST PLAINTIFF
MOSES NDUNGU KARIUKI 2ND PLAINTIFF
JAMES KANYARI KARIUKI 3RD PLAINTIFF**

AND

GEORGE NJUGUNA KARIUKI DEFENDANT

AND

GEORGE NGUGI MUIGAI PROPOSED INTERESTED PARTY

RULING

1. Before Court is the Intended Interested Party's/Applicant's Notice of Motion dated 04/7/2024 seeking the main order to be enjoined in this suit as an Interested Party. It is expressed under Section 1, 18, 3 & 3A Order 1 rule 10(2) Order 51 Rule 1 of the Civil Procedure Rules and all enabling laws.
2. The Application is based on the grounds that the Interested Party is a necessary party to this suit being the grand child of the late Jeremiah Kariuki (Deceased) his grandfather who owned parcels Tigon/Mabrouke/1141 and Ngecha/Kabuku/T60, T61, T62 and T63. That he is a necessary party who has a stake in the proceedings due to the fact that he is a beneficiary in the Estate of Jeremiah Kariuki (Deceased).
3. That unless he is enjoined to the suit, his interests will not be articulated and that he needs to appear in the proceedings to be able to champion his interests.



4. Rehashing the above grounds in his Supporting Affidavit he averred in the interest of justice and to avert an injustice being accensioned on him, he should be enjoined in the proceedings since he has lived on the parcel of land known as Ngecha/Kabuku/T63 since birth 60 years ago to date.
5. He has further deponed that being an Interested Party who has a recognizable stake, identifiable stake and a legal interest or duty in the proceedings before the Court then it is only prudent that he is enjoined. That if not enjoined he stands to lose his matrimonial home where his family resides.
6. The Applicant deposes that his presence in the suit will enable the Court to answer to questions on the ownership of the suit properties among other issues raised in the suit.
7. A brief history of the suit is useful to give a background to the application. The Plaintiffs and the Defendant are jointly registered owners of all that parcel of land known as Limuru/Ngecha/1324 which was registered to them by transmission upon completing the succession of the estate of their father Jeremiah Kariuki (Deceased). At the same time, they are the registered proprietors of two more places of land, TIGONI/MABROUKIE/1141 and Ngecha/Kabuku/T63, which they also acquired through transmission from the estate of their father Jeremiah Kariuki (Deceased).
8. That the Plaintiffs wish to dispose off of the two parcels of land by way of sale but the Defendant has similarly unreasonably withheld the consent to sell the land parcels. The Plaintiffs pray for Judgment against the Defendant for:
 - a. The Defendant be compelled to consent to the subdivision of land parcel Limuru/Ngecha/1324 by signing the documents seeking consent from the Land Control Board for such subdivision as well as any such documents as may be required by the Land Registrar to the effect such subdivision.
 - b. The Defendant be compelled to consent to the sale of both Tigoni/Mabroukie/1141 and Ngecha/Kabuku/T63 by signing the documents seeking consent from the Land Control Board for such sale as well as any such documents as may be required by the Land Registrar to effect the transfer.
 - c. Costs of the suit.
 - d. Interest on (b) above at Court rates.
 - e. Any other or such further reliefs(s) as this Honorable Court may deem just and expedient.
9. The application is unopposed despite proof of service shown vide the Affidavit of Service dated 30/04/2025 for the hearing notice and the Affidavit of Service sworn on 28/05/2025 showing service of submissions.
10. Directions were taken for parties to canvas the Motion by way of submissions. Only the Applicant filed their submissions dated 27/05/2025 which I have considered. That said the Court will determine the Motion on its merits.
11. The sole issue for determination is whether the application is merited.
12. The Black's Law Dictionary, 9th Edition at page 1232 defines an Interested Party as a party who has a recognizable stake (and therefore standing) in the matter.



13. Whereas the *Civil Procedure Act*, Cap 21 is silent on the concept of “Interested Party”, Order 1 Rule 10(2) of the Civil Procedure Rules (CPR) provides that;

“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 effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”

14. Additionally Rule 7 of the *Constitution* of Kenya (Protection of Rights & Fundamental Freedoms) Practice & Procedure Rules 2013 provides that an Interested Party can apply to be enjoined or the Court can move suo moto and enjoin a party to proceedings before it. Rule 2 thereof 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 but is not a party to the proceedings or may not be directly involved in the litigation.

15. The principles for joinder of an Interested Party in a suit are now well settled. The Supreme Court in the case of Francis Kariuki Muruatetu & Another Vs. Republic & 5 Others as consolidated with 16 of 2013; [2016] eKLR which set down the principles of joinder that;

“(37) From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an Interested Party:

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:

- a. 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.
- b. 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.
- c. 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.”

16. Earlier on the Apex Court in the case of Communications Commission of Kenya & 4 Others v Royal Media Services Limited & 7 Others [2014] eKLR affirmed 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 ...”(23)Similarly, in the case of Meme v. Republic, [2004] 1 EA 124, the High 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.”

17. The intended Interested Party’s case is that he is the grandson of Jeremiah Kariuki (Deceased) who is the owner of the suit property. He did not however annex any history of the suit and he maintains that his joinder would be the only way to ascertain the veracity of his claim is by way of hearing and analyzing evidence.
18. Applying the standard set out in the case of Muruatetu (supra), I am persuaded that the intended Interested Party has on the face of it, demonstrated identifiable stake in the proceedings before this Court.
19. In the end, I find that the Application is merited.
20. Considering the relationship of the parties, the commendable order is for each party to bear their own costs.
21. Orders accordingly.

DATED, SIGNED AND DELIVERED AT THIKA THROUGH MICROSOFT TEAMS ON THIS 14TH DAY OF OCTOBER, 2025.

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MOGENI J

JUDGE

In the presence of:-

1st, 2nd and 3rd Plaintiffs – Absent

Mr. Otieno for the Proposed Interested Party

Melita – Court Assistant

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MOGENI J

JUDGE

