



**Mulani v Mulani; Safaricom Investment Co-operative Society Limited  
(Interested Party); Mutwiwa (Proposed Interested Party) (Environment and  
Land Case 181 of 2012) [2025] KEELC 7327 (KLR) (28 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7327 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS  
ENVIRONMENT AND LAND CASE 181 OF 2012  
NA MATHEKA, J  
OCTOBER 28, 2025**

**BETWEEN**

**JOYCE MWELU MULANI ..... PLAINTIFF**

**AND**

**TABITHA NDUKU MULANI ..... DEFENDANT**

**AND**

**SAFARICOM INVESTMENT CO-OPERATIVE SOCIETY  
LIMITED ..... INTERESTED PARTY**

**AND**

**JAMES MANTHI MUTWIWA ..... PROPOSED INTERESTED PARTY**

**RULING**

1. The application is dated 31<sup>st</sup> January 2025 and is brought under Section 1A, 1B, 3A of *Civil Procedure Act*, Order 1 rule 10(2), (4), Order 51 of Civil Procedure Rules and seeking the following orders;
  1. That the application be certified as urgent and service of the application be dispensed with in the first instance.
  2. That the proceedings herein be stayed pending the hearing and determination of this application.
  3. That James Manthi Mutwiwa be enjoined as an Interested Party in this case herein.
  4. That costs of this application be provided for.



2. It is based on the grounds deponed to in the annexed Affidavit of James Manthi Mutwiwa and on grounds that the Plaintiff filed this suit against the Defendants vide a Plaint dated 25<sup>th</sup> May, 2012 seeking various orders inter alia that a declaration that the Defendant holds the property in trust for herself and the other dependants.
3. That, the Applicant has a beneficial and/or legal interest in all that parcel of land known as Konza South/Konza Block/756 which forms the subject matter of this suit. That the Defendant claims to have bought the land from SAMUEL MULANI (deceased) who was the Applicant's biological father. That the Applicant's mother separated from his late father Samuel Mulani while she was expectant and the Applicant grew up with his mother and grandfather. That the Applicant came to realize who his biological father was when he passed away in 1977 and at the time, the Applicant was a minor in primary school. That the Applicant did not have any family ties with his late father and/or his family and at the time of filing this suit the Plaintiff was not aware of his existence. That the proposed Interested Party was not aware of this current suit until recently when he came back home and was informed by a member of his father's clan about the existing suit. That the proposed Interested Party immediately started carrying out investigations to establish the veracity of the Plaintiff's claims and he established that indeed his late father was a member of Konza Ranching Society and the owner of all that parcel of land originally known as Machakos/Konza North BK/450 now known as Konza South/Konza South Block 5/756. That the Applicant established that after his father's demise, his entire shares were illegally and/or fraudulently transferred to the Defendant herein who had no ascertainable interest. That being the sole dependant of the deceased's Estate the proposed Interested Party has a legal and/or beneficial interest in the property therefore necessitating his joinder as the Interested Party. That no prejudice shall be occasioned to the Respondents if the orders sought are granted.
4. The Interested Party herein, Safaricom Investments Co-operative Society Limited opposed the Plaintiff's application dated 31<sup>st</sup> January, 2025 stated that the Plaintiff's application dated 31<sup>st</sup> January, 2025 is incompetent, bad in law and is otherwise an abuse of court process. That the said application is devoid of any merits. That the said application is misconceived and a non-starter. That the Applicant has no locus standi in not only presenting the said application but also the main suit. That the prayers sought in the Notice of Motion are not anchored on any pleadings. That the application dated 31<sup>st</sup> January, 2025 has been brought to delay, vex and/or embarrass the Defendant and the Interested Party and ultimately to stall the hearing and determination of the suit. That the application is not grounded on the suit.
5. Likewise, the Defendant/Respondent opposed the Applicant's Notice of Motion dated 31<sup>st</sup> January, 2025 on the grounds that the Application is incompetent, bad in law and an abuse of the court process and the same should be struck out. That the Interested/Applicant has no locus standi as he has not obtained Grant of Letters of Administration Ad Litem, neither did he petition for Grant of Letters of Administration. That the application dated 31<sup>st</sup> January, 2025 is full of mala fides and lacks merits both in fact and law. That the Interested/Applicant Supporting Affidavit is full of misrepresentation and does not disclose all the material facts to this court. That indeed, there is no evidence that he is the son of the late Samuel Wambua Mulani. His whereabouts since 1977, when his alleged father Samuel Wambua Mulani died have not been explained. That the application is a delaying tactic of disposal of the instant. The application does not disclose any cause of action. That the Interested Party has not satisfied the legal principles for joinder applications. That furthermore, the Application is frivolous and mischievous. On the face of it, it is evident that the Applicant has not approached the court with clean hands as a basic requirement for stay of proceedings which are at an advanced stage since 2012.



6. This court has considered the application, grounds of opposition and submissions therein. In the application above for joinder as to whether they ought to be enjoined in the suit as an interested party, the Court is guided by Order 1 Rule 10(2) of the Civil Procedure Rules which states;

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.”

7. The Supreme Court decision in *Communications Commission of Kenya and 4 Others vs Royal Media Services Limited & 7 Others* Petition No. 15 OF (2014) eKLR where the Court pronounced itself on who an Interested Party is and held as follows:

In determining whether the applicant should be admitted into these proceedings as an interested party, we are guided by this Court’s decision 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. 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 question 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.

We ask ourselves the following questions:

- a) what is the intended party’s state and relevance in the proceedings and
- b) will the intended interested party suffer any prejudice if denied joinder?”

8. It is therefore clear that the parties who should be made parties to a suit are persons who are necessary for a complete and effectual adjudication of disputes before the court.

9. The Applicant claims that SAMUEL MULANI (deceased) was the Applicant’s biological father. That the Applicant’s mother separated from his late father Samuel Mulani while she was expectant and the Applicant grew up with his mother and grandfather. That the Applicant came to realize who his biological father was when he passed away in 1977 and at the time, the Applicant was a minor in primary school. That the Applicant did not have any family ties with his late father and/or his family and at the time of filing this suit the Plaintiff was not aware of his existence. That the proposed Interested Party was not aware of this current suit until recently when he came back home and was informed by a member of his father’s clan about the existing suit. No evidence has been adduced



to confirm this relationship. The Applicant does not have any letters of administration or grant to represent the said Samuel Mulani. Indeed, his allegations ought to be confirmed in a succession cause in the High Court which has the jurisdiction. I find that the Applicant has no locus standi in this matter. The Applicant has failed to show what his stake and /or relevance is in the proceedings and whether he will suffer any prejudice if denied joinder. I find this application is not merited and I dismiss it with costs.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT MACHAKOS THIS 28<sup>TH</sup> DAY OF OCTOBER 2025.**

**N.A. MATHEKA**

**JUDGE**

