



Republic v Commissioner for Cooperative Development & 13 others; Ndwiga & 12 others (Ex parte Applicants); Muriithi & another (Alleged Contemnors); Meru County Government (Intended Interested Party) (Judicial Review Application E162 of 2024) [2025] KEHC 15251 (KLR) (Judicial Review) (28 October 2025) (Ruling)

Neutral citation: [2025] KEHC 15251 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW APPLICATION E162 OF 2024
RE ABURILI, J
OCTOBER 28, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

- COMMISSIONER FOR COOPERATIVE DEVELOPMENT ... 1ST RESPONDENT**
- NENO SACCO 2ND RESPONDENT**
- QWETU SACCO 3RD RESPONDENT**
- SOLUTION SACCO 4TH RESPONDENT**
- BUTALI SACCO 5TH RESPONDENT**
- IMARISHA SACCO 6TH RESPONDENT**
- MAKTABA SACCO 7TH RESPONDENT**
- APSTAR DT SACCO LTD 8TH RESPONDENT**
- INVEST AND GROW SACCO 9TH RESPONDENT**
- NEWPORTS SACCO 10TH RESPONDENT**
- LOMPASAGO SACCO 11TH RESPONDENT**
- GUSII MWALIMU SACCO 12TH RESPONDENT**
- COSMOPOLITAN SACCO 13TH RESPONDENT**
- SHOPPERS SACCO 14TH RESPONDENT**



AND

PETER MANGA NDWIGA EX PARTE APPLICANT
ALFRED MWADIME MLOWA EX PARTE APPLICANT
TARTISIO IRUKI ITUURU EX PARTE APPLICANT
MALOVA HESBON NYIKURI EX PARTE APPLICANT
LANGAT KIMUTAI DAVID EX PARTE APPLICANT
JOHN KIPKEMOI SIGEI EX PARTE APPLICANT
ANDREW AYARAH OKWACH EX PARTE APPLICANT
DAVID KALACHI MOYIA EX PARTE APPLICANT
GEORGE MAGUTU MWANGI EX PARTE APPLICANT
BERNARD NJUNJIRI MAINA EX PARTE APPLICANT
DAVID OGEA NYANGAU EX PARTE APPLICANT
JOHN M. NJUGUNAH EX PARTE APPLICANT
WILFRED KEMBERO AIMA EX PARTE APPLICANT

AND

FRANCIS MURIITHI ALLEGED CONTEMNOR
MURANGIRI ALFRED ALLEGED CONTEMNOR

AND

MERU COUNTY GOVERNMENT INTENDED INTERESTED PARTY

RULING

1. The application before this court is the Chamber Summons dated 18th September 2025, filed by The County Government of Meru, the intended interested party. The applicant prays that the Meru County Government be enjoined as an interested party in this matter. The application is supported by the affidavit of Mr. Murangiri Alfred the 2nd alleged contemnor herein, sworn on 18th September 2025. Mr. Murangiri introduces himself as the Sub-County Cooperative Officer in charge of Imenti North.
2. The application is brought under Order 53 and Order 3 Rule 5 of the Civil Procedure Rules, 2010, Sections 1A, 1B, 3 and 3A of the *Civil Procedure Act*, and Article 22, 23, 47 and 159 of *the Constitution*.
3. The applicant's case is that the County Government of Meru, through its Directorate of Cooperatives, is vested with statutory functions under the Meru County Cooperative Societies (Amendment) Act, 2025, including the facilitation, vetting, and regulation of cooperative societies, particularly under Section 49B (2), which provides that the Director of Cooperatives shall chair the vetting committee of all cooperative societies within Meru County.
4. According to the applicant, the present judicial review proceedings touch on the governance of Solution Sacco Society Limited and, in particular, the removal of the 3rd ex parte applicant, Mr. Tartisio Iruki Ituuru, from the Board of Directors representing Tigania East Electoral Area.



5. It is the County's case that on 25th January 2025, the Annual General Meeting of Solution Sacco was held at Gikumene Primary School, during which members resolved vide Minute 13/AGM/2025 to remove Mr. Ituuru from his position as Director, Tigania East Electoral Area.
6. That following the AGM, the Board of Directors of Solution Sacco convened a consultative meeting on 5th February 2025, where the 3rd ex parte applicant was informed of his removal in compliance with the members' resolution, and that from that date, he ceased to attend Board meetings.
7. That as a result of the vacancy, the Board of Solution Sacco resolved under Minute 83/BOD/2025 to initiate steps to fill the vacant position. The County Government of Meru is said to have through its Directorate of Cooperatives, in exercise of its statutory mandate, subsequently issued a Vetting Exercise Notice dated 24th July 2025, signed by Mr. Murangiri on behalf of the Director of Cooperatives.
8. It is submitted that thereafter, a notice of the Vetting Committee meeting was issued on 1st August 2025, also signed by Mr. Murangiri and that the vetting exercise was conducted, clearing two candidates to vie for the vacant seat.
9. That an election to fill the vacancy is said to have been scheduled for 23rd August 2025. However, that on 22nd August 2025, at around 1700 hours, the office of the Director of Cooperatives was served with a Court Order halting the said election. It is the County's case that upon consultations with Solution Sacco management, the County Government of Meru fully complied with the Court Order and immediately cancelled the elections.
10. According to the Mr. Murangiri, the role of the County Government of Meru in these matters has been strictly facilitative, regulatory, and supervisory, and that at no point has the County acted in contempt of the judgment of 24th June 2025 or any subsequent Court Orders.
11. Further, that the issues raised in these proceedings directly affect the statutory mandate, responsibilities and reputation of the County Government of Meru, particularly its Directorate of Cooperatives and that therefore the outcome of this case cannot be justly and completely determined without the County's participation.
12. He also depones that that Order 3 Rule 5 of the Civil Procedure Rules, 2010 permits the joinder of causes of action and parties where such joinder ensures complete adjudication, prevents multiplicity of suits, and secures substantive justice.

Response

13. In response to the application for joinder, only the 3rd ex parte applicant filed a replying affidavit sworn on 1st October 2025 by Mr. Tartisio Iruki Ituuru who deposes that it is trite law that joinder of parties in civil proceedings, including judicial review, must be guided by established legal principles most notably, that the intended party must have a direct, real, legal, and not speculative interest in the subject matter. Additionally, that joinder is permissible only where the presence of the proposed party is necessary for the Court to effectually adjudicate upon all questions involved.
14. The 3rd ex parte applicant's case is that the County Government of Meru has no direct legal or proprietary interest in the subject matter of these proceedings, which is, his impugned removal from a leadership position within Solution Sacco. The County, it is contended, has no discernible legal duty, actionable omission, or impugned administrative action in these proceedings.
15. It is contended that while the County Government may exercise devolved functions under Schedule 4 Part 2 (7)(c) of *the Constitution*, such functions are limited to policy and cooperative development promotion at the county level, and not governance of specific Saccos. Also, that Mr. Murangiri Alfred,



the Sub-County Cooperative Officer, is already properly enjoined as the 2nd contemnor, and his actions are under a separate inquiry therefore his role does not justify dragging the entire County Government into the suit.

16. According to the 3rd ex parte applicant, liability for contempt in judicial review proceedings attaches to the specific office or public officer who made the impugned decision and not to peripheral institutions or entities unless their involvement is shown to be unlawful, ultra vires, or procedurally improper.
17. The 3rd ex parte applicant also states that the County Government of Meru, as a distinct corporate entity, established under Article 176 of *the Constitution* and governed by the *County Governments Act*, 2012, cannot be enjoined merely because one of its officers attended a meeting, issued a notice, or provided technical support, unless it is shown that the County as an institution sanctioned such actions, which is stated not to be the case here.
18. It is further contended that judicial review is concerned solely with the legality of decisions, not with merits or policy considerations, and the involvement of administrative actors without determinative authority is irrelevant. Further, that the County Government is neither a decision-maker, nor the subject of the orders of certiorari or prohibition, and has not been alleged to have acted unlawfully in any way that is challenged by the 3rd ex parte applicant. That citation of Section 49B (2) of the alleged Meru County Cooperative Societies (Amendment) Act, 2025, is insufficient to confer jurisdiction or involvement in this matter upon the County Government.
19. The 3rd ex parte applicant contends that the attempt to enjoin the County Government appears to be a strategic move to shift accountability from the central issue namely, the unlawful removal and exclusion of elected Sacco officials.
20. According to the 3rd ex parte applicant, the application does not specify the reliefs sought against the County Government, nor does it demonstrate how its inclusion would aid in the resolution of the questions in controversy. The same is said to amount to a fishing expedition, and invites the Court to engage in academic adjudication contrary to Article 159(2)(b) of *the Constitution*, which promotes substantive justice over procedural technicalities.
21. Further, it is contended that although the joinder principles are intended to promote judicial economy and avoid multiplicity of suits, joinder, in the instant case, would complicate proceedings, introduce peripheral issues and occasion unreasonable delays.
22. The 3rd ex parte applicant's further contention is that none of the pleadings filed so far allege any breach of duty, ultra vires action, or illegality attributable to the Meru County Government in its corporate capacity, and also, that none of the pleadings filed allege the same.
23. The 3rd ex parte applicant further states that the County Government of Meru ought not to be enjoined to these proceedings since the alleged impugned contemptuous actions were not made by the said County Government as a corporate entity.
24. It is contended that the actions of Mr. Murangiri Alfred cannot be attributed to the County Government, as a public officer's administrative or supervisory engagement does not confer institutional liability or locus standi on the County, especially in matters contempt of court orders. The 3rd ex parte applicant argues that no illegality, irrationality, or procedural impropriety has been demonstrated on the part of the County Government, nor has any relief been sought against it to warrant its being enjoined to these proceedings.



25. It is further contended that joinder must be based on a direct and substantial legal interest in the outcome of the matter and that the County has not shown any prejudice that it would suffer if excluded.
26. According to the 3rd ex parte applicant, the purpose of judicial review is to hold accountable the actual decision makers, not third parties with peripheral involvement. The present application, in their view, is an attempt to lend institutional legitimacy to the impugned actions. The 3rd ex parte applicant therefore prays that the application for joinder be dismissed with costs.

Submissions

27. The application was canvassed by way of oral submissions as directed by the court on 24th September 2025, but the intended interested party also filed written submissions dated 10th October 2025.
28. During the oral highlights by the parties Mr. Kaaria counsel for the intended interested party submitted that the 2nd alleged contemnor is a County Co-operative Officer serving as such in the County Government of Meru. Further, that the officer was executing his County statutory mandate as per the Meru County Co-operatives Society Amendment Act No. 20 of 2025.
29. It was submitted that under Order 1 Rule 10(2) of the Civil Procedure Rules and as pronounced in the *Trusted Society of Human Rights Alliance vs. Matemo & 5 others* [2014] KESC 32 (KLR) case, a party whose participation is necessary for effectual adjudication of a dispute should be enjoined to the proceedings.
30. Counsel submitted that the County Government of Meru is institutionally responsible for actions undertaken by its officers, and will be directly affected by the outcome of these proceedings.
31. In response, counsel for the 3rd ex parte applicant, Mr. Okore argued that contempt is of a personal nature and that Meru County Government, a body corporate is not a proper party to this case. Mr. Okore also submitted that the threshold for joinder has not been demonstrated and that the necessity of the County Government of Meru has not been demonstrated. It was his submission that there is a plethora of authorities on this which include the case of *Francis Muruatetu & 5 others vs. Republic* [2017] eKLR.
32. Counsel for the 3rd ex parte applicant submitted that a personal stake has to be demonstrated as was held by the court in *Trusted Society of Human Rights Alliance vs. Matemo & 5 others* [2014] KESC 32 (KLR). Further, that the locus standi for joinder of interested party, is real stake not by association must be shown and, how the party will be affected by proceedings if not joined.
33. He also submitted that joinder of a party post judgment is highlighted in *Bellevue Development Company Limited vs. Vinayak Builders Limited & another* [2014] KEHC 5507 (KLR) where the court is said to have cited instances where a party may be joined post judgment, BUT warned of the consequences including constitutional objections, the right to be heard and the principle of finality.
34. He also submitted that in this case, the application for joinder is by a busybody and a ploy to delay the contempt application so that the term of the 3rd ex parte applicant expires.
35. The other parties did not file any responses or submit on the application.

Analysis and Determination

36. I have considered the application for joinder of the proposed interested party, the supporting affidavit, the affidavit in response to the application and the oral submissions made by counsel for the respective



- participating parties. I find that the main issue for determination is whether the applicant, Meru County Government should be enjoined to these judicial Review proceedings as an interested party.
37. 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.”
38. The ‘Mutunga Rules’, *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, Legal Notice No. 117 of 2013, define an interested party as:
- “ A person or an entity that has an identifiable stake or legal interest or duty in the proceedings and may not be directly involved in the litigation.”
39. The said Mutunga Rules further at Part II Clause 7 provide that, a person with leave of the Court may make an oral or written application to be joined as an interested party. The Court may also on its own motion, join an interested party to the proceedings before it.
40. In *Kenya Medical Laboratory Technicians and Technologists Board & 6 others v Attorney General & 4 others* [2017] eKLR, Mativo. J. (as he then was) persuasively explained when an interested party may be enjoined in a proceeding. He stated that:
- “ A person is legally interested in the proceedings only if he can say that it may lead to a result that will affect him legally that is by curtailing his legal rights. In determining whether or not an applicant has a legal interest in the subject matter of an action sufficient to entitle him to be joined as an interested party the true test lies not so much in an analysis of what are the constituents of the applicant's rights, but rather in what would be the result on the subject-matter of the action if those rights could be established. It is apparent that a party claiming to be enjoined in proceedings must have an interest in the pending litigation, but the interest must be legal, identifiable or demonstrate a duty”.
41. In *Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 others* [2014] eKLR the Supreme Court of Kenya held 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...”
42. The Supreme Court similarly established the rules that apply when evaluating an application to be enjoined in proceedings as an interested party in *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others SC Petition (Application) No 12 of 2013*. The principles were affirmed in the case of *Francis Karioko Muruatetu & another v Republic & 5 others, Sup Ct Petition No 15 as consolidated with Petition No 16 of 2015, [2016] eKLR* where the court stated:
- “ 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:



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.”

43. This Court is guided by the settled principle that joinder of parties, including in judicial review proceedings, is permissible only where the intended party’s presence is necessary to enable the Court to effectually and completely adjudicate upon all questions in controversy.

44. Jurisprudence also recognises that joinder after judgment is an exceptional measure. As observed in *Bellevue Development Company Limited v Vinayak Builders Limited & another* [2014] KEHC 5507 (KLR);

“Joinder of parties is possible after judgment. I will give some examples where such joinder of parties is permitted: (1) in cases of representative suits; or (2) substitution of one or more parties, for instance, in case of death, or incapacity of a party or change of status of a party; or (3) in execution process. In the broader sense, it is deemed to be a kind of joinder of parties where a contemnor was not a party in the suit where judgment has already been entered and for which he is being cited for contempt of court. Equally, it is a joinder of parties where an objector raises objection to execution under Order 22 rule 51 of the CPR. However, any joinder of parties post-judgment will have to surmount any possible constitutional objections on the front of rules of natural justice and the principle of finality of litigation.”

45. The above decision underscores that post-judgment joinder is permissible only in narrowly defined circumstances such as substitution, execution, or contempt and in this regard, where the person being cited for contempt was not a party to the proceedings. The court also observed that the joinder must not undermine the principle of finality of litigation. Further, that the Court must therefore be satisfied that the proposed party’s presence is indispensable to the enforcement or effectiveness of its orders, and not merely desirable or convenient.

46. In the instant case, judgment was delivered, and what is before the court are contempt proceedings to which the intended interested party intends to be enjoined. It is important to note that Mr. Murangiri was not a party to these original proceedings and has only been cited for being in contempt of this Court’s Orders.

47. Order 1 Rule 10 (2) of the Civil Procedure Rules in Kenya provides that:

“The court may at any stage of the proceedings, either upon or without the application of either party, order that the name of any party improperly joined be struck out, and that the name of any person who ought to have been joined... 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... be added.”



48. This provision gives the court wide discretion to allow joinder “at any stage”, including execution, if the applicant demonstrates a direct interest in the subject matter.
49. It is however a well settled principle of law that contempt liability is individual and it attaches only to those who are personally bound by a court order as individuals and are under a legal obligation to comply with the court order. It would therefore be improper to enjoin a party who is neither the subject of the order nor directly charged with the execution of the said order.
50. It follows that taking over contempt proceedings is a herculean task for reasons that contempt proceedings are not ordinary civil applications. The questions involved in contempt proceedings which are personal in nature include: Locus standi (standing): The person seeking to take over must show a legal or beneficial interest in enforcing the order that was disobeyed; Court’s discretion- because contempt is directed at protecting the dignity of the court, the court can allow another interested party (e.g., successor in title, assignee, or interested stakeholder) to continue the proceedings if justice requires.
51. Courts would therefore be reluctant to allow strangers to “take over” contempt proceedings unless they have succeeded the original applicant’s or respondent’s interest (e.g., through substitution, assignment, or being an official successor); the subject matter of the order affects them directly (e.g., they are a beneficiary of the order, or non-compliance affects their rights) and or where the original applicant/ respondent is unable or unwilling to proceed, and the interests of justice demand enforcement. The new party cannot “take over” contempt proceedings purely for private motives, such as to assist a contemnor or alleged contemnor to escape liability; their role must align with the court’s interest in enforcing obedience to its orders.
52. In this case, for this court to establish whether there is necessity for the applicant to be enjoined to these now contempt proceedings, it must be satisfied that to do so would assist the court in the enforcement of obedience of its orders. The applicant has not satisfied this test, since the alleged contemnor, though an employee of the applicant intended interested party, has been cited for specifically allegedly violating this Court’s order of 24th June, 2025.
53. Additionally, the County Government’s application for joinder is premature. The contempt motion is still pending, and the persons cited for disobedience have yet to be heard or found culpable. The court must first determine whether contempt has indeed been proved. Only thereafter can questions of enforcement or institutional facilitation arise.
54. If contempt is ultimately established, the County Government may then, if necessary, participate for the limited purpose of facilitating compliance with the orders of the court. At that stage, its role would be administrative and supportive rather than defensive, unless it aids or abets in disobedience of court orders in which case, whoever will be responsible for those acts will be personally cited for contempt, as the process would have moved from adjudication to enforcement.
55. The 3rd ex parte applicant has correctly submitted that the County Government of Meru has no direct legal or proprietary interest in the subject matter of these proceedings, which concern his removal from leadership of Solution Sacco. The County Government is neither a decision maker nor the subject of any relief sought. The alleged actions of Mr. Murangiri Alfred, the Sub-County Cooperative Officer, are under separate inquiry, and his conduct cannot, without more, be attributed to the County Government, even if he was directed by the county government to undertake any cooperative or supervision work at the Solutions Sacco. This is so because contempt of court proceedings as instituted against him are very personal and cannot be transferred to the county government of Meru, his employer.



56. It has also been rightly argued that judicial review is concerned with the legality of decisions, not their merits and liability attaches to the specific public officer who made the impugned decision, not to peripheral or supervisory entities unless their involvement is shown to be unlawful, ultra vires, or procedurally improper.
57. Joinder must be based on a real and proximate legal stake in the outcome, not on a speculative or administrative interest. The County Government has not demonstrated any prejudice it stands to suffer if excluded from the contempt proceedings affecting the specifically named officer who is alleged to have directly violated the order of this court and for which the Court is yet to determine whether indeed, the officer who is named was in contempt of the court order.
58. In the view of this court, the proposed participation of the applicant Meru County Government appears intended to lend institutional legitimacy to contested actions rather than to assist the court in resolving the real questions in controversy.
59. In the premises, I am satisfied that the County Government of Meru has not demonstrated any identifiable or proximate legal interest that would justify its joinder in these proceedings. It has also not demonstrated any prejudice that might occur to it if it is not joined as an interested party to these proceedings.
60. I reiterate that the contempt application remains pending, and no finding of disobedience has been made against the persons cited. The County Government is neither the subject of the impugned orders nor directly responsible for their implementation. Its participation at this stage would neither advance the just determination of the issues before the court nor serve the ends of justice.
61. Accordingly, the application for joinder dated 18th September 2025 is found
62. Each party shall bear their own costs of the application for joinder.
63. The contempt application shall be heard orally on 6/11/2025.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 28TH DAY OF OCTOBER, 2025

R.E. ABURILI

JUDGE

