



**Ethics and Anti-Corruption Commission v Cantie HA Limited & 2 others (Environment and Land Case 4 of 2023) [2025] KEELC 7793 (KLR) (10 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 7793 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT AND LAND CASE 4 OF 2023  
A OMBWAYO, J  
NOVEMBER 10, 2025**

**BETWEEN**

**ETHICS AND ANTI-CORRUPTION COMMISSION ..... APPLICANT**

**AND**

**CANTIE HA LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**KIPRUTO KEMBOI & ANOTHER & ANOTHER &  
ANOTHER ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

**The application**

1. Richard Kipngetich Langat hereinafter referred to as the applicant has come to this court seeking orders that he be enjoined in the matter. The application is based on the grounds that he is a bona fide owner of parcel of land known as LR 527 Njoro measuring 640/63 Ha within Nakuru County. The applicant has filed a supporting affidavit stating that he has been in actual possession of the parcel No:LR 528 measuring 459.7 Hectares since 1992. He contributed towards the payment of the requisite fees for approval and survey fees for the suit property. He claims that he entered into an agreement with Moses Awino Odhiambo t/a Mosem enterprise and the 4th defendant towards acquisition of the parcel of land known as LR NO:528 Njoro. The agreement was entered by the 2nd to the 142nd interested parties who are under him and are also in actual possession of the suit property.
2. The applicant contends that they have filed a suit being ELC NO-OOI OF 2025 over the same subject land where they are all seeking for a declaration that the plaintiffs are the allottees/owners of the parcel of land known as LR NO. 527 & 528 situated in Njoro measuring 640.63 and 459.7 hectares respectively. They claim to have been grazing their cattle and cultivating the suit property for over 12 years and therefore their livelihood depends on the suit property: For the sake of justice, they beseech this honorable court to allow their application since they are in possession of the suit property which. This honorable court issued an order on the 16th December, 2024 for status quo to be maintained.



## Responses

3. The 2nd plaintiff filed a replying affidavit of Prof. Richard Mulwa stating that the purported agreement for the distribution of property apart from being meaningless as a conveyance instrument was fabricated during the currency of the court order in question and is therefore contemptuous.
4. The 2nd plaintiff believes that the said document has been crafted either to appease the so called third party who may be one of the individuals who have been conned by the 4th defendant out of
5. money ostensibly to procure for them land in the area or he is indeed amongst the faceless individuals going about the country looking for land belonging to public bodies to grab and is acting in cohort with the 4th defendant . His joinder into these proceedings will not add any value to the disposal of the matter but Will convolute the same by adding busy bodies who have no proprietary right or interest worthy of any enquiry. Although the court has powers under the rules of the court to add parties such power is intended to facilitate comprehensive and cost-effective determination of all questions over the subject matter and not to add to the costs by introducing parties who have no demonstrable interest in suit. The so-called Interested Party/Application's interest it any can be agitated by his so called partner the 4th defendant herein who has been the case from the outset and there is no purpose whatsoever that the inclusion of the so called interested party in these proceedings will serve,
6. According to the 2nd plaintiff, it can be deduced from the conduct of the applicant that he is not keen to have the suit herein heard and determined, he is interested in filing multiple application to delay the same and in the meanwhile disrupting the 2nd plaintiff's lawful and productive processes being undertaken on the parcels.
7. The 4th defendant states that the purported agreement dated 2nd July, 2025, annexed in the applicant's affidavit is the applicant's own creature to try and soil the name of the 4th Defendant and an attempt to scuttle the hearing of the case on the aforesaid dates appointed by the Honorable Court for reasons well known to the applicant and/or any person whomsoever behind him or acting through him. The 4th Respondent/Defendant is stranger to the contents of the paragraphs 3 of the Applicant's affidavit and from what source he got the receipts is not known to the 4th Respondent since the receipts annexed to the application have never been given to the Applicant by the Respondent and the Applicant has not disclosed to the Honorable Court the source and/or how the Applicant got the said receipt.
8. The Honorable Court, made a Court visit to the contested parcels of land and formed its own opinion which is unknown to the 4th Respondent and alt parties till the case is heard and determined. The ownership and possession are contested issues which the Honorable Court will deal with during the main suit.
9. Ethics and Anti- Corruption Commission, who is the 1st plaintiff, filed the affidavit of Maryline Kemei stating that the Intended Interested Party now seeks to be joined to these proceedings on the basis of an alleged agreement dated 2nd July 2025 entered into with the 4th Defendant, Moses Owino Odhiambo t/a Mosem Enterprises, purportedly for the subdivision and allocation of the suit properties. The said agreement was executed long after the Court's order maintaining status quo and is therefore unlawful, void and in blatant contempt of court order. A party cannot rely on his own illegality to seek the indulgence of this Honorable Court.
10. According to the 1st plaintiff, the Intended Interested Party's alleged interest, being founded on a transaction undertaken in violation of express court orders, cannot be recognized or protected by this Court. The principle is well settled that he who comes to equity must come with clean hands, and one who has disobeyed court orders cannot invoke the same court's jurisdiction for relief.



11. The said 1st Plaintiff further avers that the issues raised by the Intended Interested Party are already fully before the Court through the existing pleadings of the Defendants and the 2nd Plaintiff. The question of ownership, possession, and title of L.R Nos. 527 and 528 Njoro is squarely in issue and will be conclusively determined at trial. The joinder of the Intended Interested Party at this advanced stage; after pre-trial directions have been complied with, after the matter has been certified ready for hearing, and after the Court has fixed firm hearing dates for 17th, 18th and 19th November 2025, is purely dilatory and mischievous, intended to obstruct the expeditious disposal of this matter contrary to the overriding objective under Sections IA and 1 B of the Civil Procedure Act. The Intended Interested Party has not demonstrated any distinct legal or equitable interest in the
12. property that would render his presence necessary for the effectual determination of this suit as contemplated under Order 1 Rule 10(2) of the Civil Procedure Rules. His claim is derivative and entirely dependent on a contested agreement with one of the Defendants. The 1st Plaintiffs position is that the land in question constitutes public property vested in the 2nd Plaintiff, Egerton University, and that any purported alienation, transfer, or subdivision to private persons, including the Intended Interested Party, is irregular, illegal and contrary to public interest.
13. The 1st Plaintiffs mandate under Article 79 of the Constitution and Section 11(l) (j) of the Ethics and Anti-Corruption Commission Act is to protect, recover and preserve public property. Allowing a party who is directly implicated in dealings contrary to the Court's preservation orders to join these proceedings would defeat that mandate and frustrate the public purpose for which this suit was instituted.

### Rival Submissions

14. The applicant submits that he is a member of Ngongeri Farm and he is in actual possession of the subject suit property. He has been in possession since 1992. He contributed towards the survey of the suit property. The applicant with others used the firm of Mosem Enterprises to acquire the property. He relies on the case of Kenya Medical Laboratory Technicians and Technologist Board and 6 others -vs- AG and 4 others (2017) eKLR where the court stated:-

“The test is not whether the joinder of the person proposed to be added as an interested party would be according to or against the wishes of the petitioner or whether the joinder would involve an investigation into a question not arising on the cause of action averred by the petitioner. It is whether the intended interested party has an identifiable stake or a legal interest or duty in the proceedings.....

"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 or 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 in the proceedings directly identifiable by examining the questions involved in the suit.

15. He further relies on the case of Francis Kariuki Muruatetu & another V Republic & 5 others Petition No.15 as consolidated with No16 of 2013 (2016) eKLR where the court gave 3 principles of joinder as an interested party thus:-



16. The personal interest or stake that the party had 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.
17. 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.
18. 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. "
19. The 1st plaintiff submits that the applicant relies on an agreement executed when the court had frozen all dealings on the parcel of land and therefore the agreement is tainted with illegality.
20. Moreover, that the interested party has not demonstrated that his participation is necessary for the determination of Key issues already before this court. That the application is an abuse of the court
21. process because it was filed about one year after the matter was certified ready for hearing.
22. The 2nd plaintiff submits 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 . The 2nd plaintiff contends that the agreement dated 2th July 2025 is illegal abinito and cannot be ventilated before the corridor of justice. Moreover, the agreement does not confer any interest the applicant claim that he had been in possession of the property cannot be substantiated. Lack of certificate of title demonstration that he has no interest in the property.

### **Analysis and Determination**

23. In *Communications Commission of Kenya & 3 others v Royal Media Services Limited & 7 others; Nature Foundation Limited (Proposed Interested Party)* [2014] KESC 52 (KLR), the Supreme Court held that an interested party is one who has a stake in the proceedings and whose presence will assist the court in effectively and completely adjudicating upon and settling all questions involved in the matter. I have considered the application and do find that the applicants claims to be in possession of part of the property and that when the court visited the suit property, the applicant addressed the court on site and showed the court a wheat plantation grown by Egerton University allegedly on his land. He claimed that he ploughed the land but Egerton University planted wheat on the said land he had ploughed. This was during the site visit was on 17th December 2024. By virtue of his statement at the site visit, I do find that the applicant has an identifiable interest in the suit property and therefore he is hereby added as an interested party. He is hereby allowed to file an affidavit within the next 5 days. Matter to proceed as scheduled. Costs in the cause

**SIGNED BY/FOR:**

**HON. JUSTICE ANTONY O. OMBWAYO**

**THE JUDICIARY OF KENYA. NAKURU ENVIRONMENT AND LAND COURT  
ENVIRONMENT AND LAND COURT**

**DATE: 2025-11-10 13:17:50**

