



REPUBLIC OF KENYA



KENYA LAW
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**Gathecha v Mwaura & 4 others (Environment and Land Case
127 of 2022) [2025] KEELC 7863 (KLR) (12 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 7863 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND CASE 127 OF 2022
JM ONYANGO, J
NOVEMBER 12, 2025**

BETWEEN

GEORGE MURITU GATHECHA PLAINTIFF

AND

JOHANA MUGO MWAURA 1ST DEFENDANT

NJOROGE WA NGUGI 2ND DEFENDANT

LAND REGISTRAR, THIKA 3RD DEFENDANT

THE HON. ATTORNEY GENERAL 4TH DEFENDANT

JOSEPH NDUNGU KAMAU 5TH DEFENDANT

RULING

1. What is before me for determination is the Applicant's application dated 6th March 2025 seeking the joinder of the Applicant, that is Joseph Ndungu Kamau, as a 5th Defendant in the matter. The Application is premised on the Applicant's supporting affidavit sworn on even date.
2. The application was vehemently opposed through the Plaintiff's Grounds of Opposition date 17th June 2025 which was countered by the Applicant's Further Affidavit sworn on 22nd July 2022 and 24th December 2025.
3. The application was canvassed through written submissions and both parties field their submissions which I have carefully considered in arriving at my decision.

Analysis And Determination

4. The only issue for determination is whether the Applicant ought to be joined as a Defendant.



5. The Court's power to order joinder of parties is a discretionary one which must be exercised judiciously within the framework set out in Order 1 Rule 10(2) of the Civil Procedure Rules. The said provision directs the Court to consider whether the presence of a party is necessary to enable it to effectually and completely adjudicate upon all questions involved in the suit.
6. Order 1 Rule 10(2) of the Civil Procedure Rules provides for the addition and substitution of parties to a case in the following terms:
 10. Substitution and addition of parties [Order 1, rule 10]
 - (2) "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 above provision makes it clear that the court ought to ensure that all parties whose presence is necessary for the complete adjudication of the matter before it are added to the suit.
8. The principles that guide the court in determining whether or not a party ought to be joined to a suit were articulated in the case of *Joseph Njau Kingori v Robert Maina Chege & 3 others* [2002] eKLR where the Court distilled the principles governing the joinder of a party as follows:
 1. He must be a necessary party
 2. He must be a proper party.
 3. In the case of a defendant there must be a relief flowing from that defendant to the plaintiff.
 4. The ultimate order or decree cannot be enforced without his presence in the matter.
 5. His presence is necessary to enable the Court to effectively and completely to adjudicate upon and settle all questions involved in the suit."
9. Applying these principles, the question I have to answer is whether the Applicant is so connected to the issues in dispute that his presence is necessary for the Court to resolve the matter fully and fairly.
10. In the instant case, the Applicant admits that the Plaintiff does not have any claim against him but he asserts that he is the rightful owner of land parcel number THIKA MUNICIPALITY BLOCK 13/317 as he was issued with an allotment letter in October 1996. He has annexed several documents both from the former Municipal Council of Thika and a letter from the County Government of Kiambu dated 22nd July 2023. What emerges is that the Applicant just like the Plaintiff and Defendant in this matter is laying claim to the suit property and as correctly submitted by counsel for the Applicant, the determination of the claim by the Plaintiff and the Defendant would still leave the Applicant's claim over the suit property unresolved thus opening it to further litigation.
11. As was held in the case of *Meme v Republic* 2004 E.A 124, a party could be joined in a suit for the following reasons:



- a. Because his presence will result in the complete settlement of all questions involved in the proceedings;
 - b. To provide protection for the rights of a party who would otherwise be adversely affected in law;
 - c. To prevent a likely course of proliferated litigation;
12. Further in the case of *Civicon Limited v Kivu watt limited & 2 Others* (2015) eKLR the court emphasized the need for joinder of all parties who are related to the subject matter so that the dispute may be determined in their presence at the time without any protraction, inconvenience and to avoid a multiplicity of proceedings. The court observed as follows:
- “We may add that all that a party needs to do is to demonstrate sufficient interest in the suit; and the interest need not be the kind that must succeed at the end of the trial.”
13. Regarding the timing of the application, in *Tang Gas Distributors Ltd v Said & Others* (2014) E.A 448 the Court of Appeal in Tanzania observed as follows:
- “The power of the court to add a party to proceedings can be exercised at any stage of the proceedings; that a party can be joined without applying; that the joinder may be done either before or during the trial; that it can be done even after judgment where damages are yet to be assessed; that it is only when a suit or proceeding has been finally disposed of and there is nothing more to be done that the rule becomes inapplicable; and that a party can even be added at the appellate stage.”
14. What can be gleaned from the above authorities is that the court has a wide discretion to join parties at any stage of the proceedings, even suo moto, as long as they have a stake in the subject matter and their presence is necessary to effectually adjudicate upon and settle all the questions in dispute.
15. The court notes that the suit has not yet been set down for hearing and therefore no prejudice will be suffered by the Plaintiff if the application is allowed as the Respondents will have an opportunity to respond to any issues that the Applicant may raise in his pleadings. In the circumstances, the interest of justice would be served if the Applicant is joined to the suit.
16. Accordingly, the application has merit and I allow it and make the following orders:
- a. The Applicant is joined to the suit as a 5th Defendant.
 - b. The Plaintiff shall forthwith amend the Plaintiff to include the Applicant as the 5th Defendant.
 - c. The Applicant (5th Defendant) shall upon being served with the Amended Plaintiff, enter appearance, file and serve his Defence and Counterclaim and all other necessary documents within 14 days.
 - d. The Plaintiff shall thereafter file his Defence to the Counterclaim within 14 days upon being served.
 - e. The costs of the application shall be in the cause.
 - f. In order to expedite the case, the matter shall be mentioned before the Deputy Registrar for pre-trial Conference within 45 days.



DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 12TH DAY OF NOVEMBER 2025.

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J. M ONYANGO

JUDGE

In the presence of:

Mr. Muiruri for the Plaintiff

Mr. Njoroge wa Ngugi for the 2nd Defendant

Court Assistant: Hinga

