

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT ELDORET
E & L CAUSE NO. 375 OF 2017

**PRISCILLAH JEBET BIWOTT (Suing as the Administratrix
of the Estate of DORCAS KIPROTICH (Deceased)1ST
PLAINTIFF**

**EDITH JEMAITA BIWOTT2ND
PLAINTIFF**

**JANE EGO (Suing as the Administratrix
of the Estate of EGO KEBENEI (Deceased) 3RD
PLAINTIFF**

**DAVID KIPKOECH KOMEN4TH
PLAINTIFF**

**ANDREW KIPTARUS KENEI5TH
PLAINTIFF**

**JAMES KIPRONO KIMETO6TH
PLAINTIFF**

-VERSUS-

**JACOB KIMETO
1STDEFENDANT**

**EZEKIEL KOMEN2ND
DEFENDANT**

**MUSA CHESANG3RD
DEFENDANT**

**JOHN KOITIE4TH
DEFENDANT**

**GEOFFREY KITUR5TH
DEFENDANT**

WILLIAM CHEMWENO	.....	6 TH
DEFENDANT		
UASIN GISHU COUNTY LAND REGISTRAR	.....	7 TH
DEFENDANT		
ATTORNEY GENERAL	.....	8 TH
DEFENDANT		
AGNES JEPKEMOI KIPRONO	.....	9 TH
DEFENDANT		
JENIFFER RUTTO TONYE	.....	10 TH
DEFENDANT		
ZEPHANIAH KIPSANG YEGO	.....	11 TH
DEFENDANT		

AND

FRANCIS KIPSANG BIIPROPOSED INTERESTED PARTY/APPLICANT

RULING

- The proposed Interested Party (hereinafter referred to as **“the Applicant”**) filed a Chamber Summons Application dated 18.06.2025 (hereinafter referred to as **“the present Application”**) seeking the following orders: -
 - Spent.
 - THAT Francis Kipsang Bii be joined as an Interested Party in these proceedings.**
 - THAT the costs of this Application be provided for.**
- The grounds upon which the above prayers are sought is premised on the Supporting Affidavit sworn on 18.06.2025 and can be summarized as follows; -

- i. The Applicant is the current registered owner of `KIPLOMBE/KIPLOMBE BLOCK 10 (GROWEL)/897 (hereinafter referred to as the **“suit property”**) and is in use and occupation thereof.
 - ii. The Applicant purchased the suit property from the 5th Defendant herein who was at that time the registered owner.
 - iii. The Applicant contents that the procedure and manner in which the suit property was acquired from the 5th Defendant was legitimate and lawful in line with the law.
 - iv. As such, it is important for the Applicant to be joined in this proceeding as the dispute herein touches on his ownership rights and he should be given a chance to be heard before a determination by the Court.
 - v. The present Application does not cause any prejudice to either of the parties but is meant to have all the parties participate in the proceeding so that a just solution can be achieved by the Court.
3. The present Application was duly served on the Plaintiffs and the Defendants herein.
4. The 3rd, 4th, 5th and 6th Plaintiffs (hereinafter referred to as **“the Respondents”**) opposed the present Application by filing a Replying Affidavit dated 27.06.2025.
5. The facts pleaded by the Respondents in opposition of the present Application are as follows;-
 - i. The Respondents disclosed that the Applicant herein was a person well known to them.

- ii. The Applicant has been aware of the pending proceeding before Court since the year 2017.
 - iii. The Applicant was even aware of the Site Visit made on the 25.04.2018 by the Deputy Registrar of this Court.
 - iv. The decision by the Applicant to purchase the suit property during the pendency of this suit offends the doctrine of *lis pendens*.
 - v. If the Applicant has any reliefs and/or claims emanating from the suit property, then such reliefs and/or claims should be instituted against the Vendor and not in this suit.
 - vi. In conclusion, the Respondents sought this Court to dismiss the present Application with costs.
6. The Court directed that the present Application be canvassed by way of written submission.
 7. At the time of writing this Ruling, it is only the Applicant that had filed their submissions dated 18.07.2025.
 8. Be as it may, the Court has carefully perused the present Application, the Replying Affidavit by the Respondents and the submissions dated 18.07.2025 and identified the following issues for determination.

ISSUE NO. 1- IS THE APPLICANT A NECESSARY PARTY IN THIS SUIT?

ISSUE NO.2- IS THE PRESENT APPLICATION MERITED?

ISSUE NO.3- WHO BEARS THE COSTS OF THE PRESENT APPLICATION?

9. The Court having duly identified the above-mentioned issues for determination, the same will now be discussed as below.

ISSUE NO. 1- IS THE APPLICANT A NECESSARY PARTY IN THIS SUIT?

10. The present Application has been brought through the provisions of Order 1 Rule 10(2) of the Civil Procedure Rules, 2010 which states as follows; -

“(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”.

11. The Black’s Law Dictionary, 9th Edition, defines ‘Interested Party’ (at p.1232) as ***“A party who has a recognizable stake (and therefore standing) in a matter”***

12. The Supreme Court in the case of **MURUATETU & ANOTHER-VERSUS- THE REPUBLIC; KENYA NATIONAL COMMISSION ON HUMAN RIGHTS & 2 OTHERS (INTERESTED PARTIES); DEATH PENALTY PROJECT (INTENDED AMICUS CURIAE) [2016] KESC12 (KLR)** stated as follows: -

“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:

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.”

13. It is now well settled that an Interested Party is a person whose presence in Court may be necessary to help the court to effectually answer and adjudicate upon all issues and questions that may arise during the trial.
14. An Interested Party is also a person who stands to be affected by the decision of a court when it is made.

15. The Applicant contends that he is the current registered owner of the suit land, having validly purchased the same from the 5th defendant.
16. That pursuant to the said sale, he is in possession and occupation of the suit land.
17. It is the Applicant's claim that he stands to be greatly prejudiced and adversely affected if not joined to the proceedings.
18. The Respondents on the other hand state that the Applicant has no stake in the present proceedings and that his reliefs should be against the 5th Defendant who sold to him the suit property.
19. The Respondents further maintain that the Applicant was fully aware of the proceedings since the year 2017 but went ahead and entered into the sale transaction during the pendency of the suit.
20. The question that follows is whether the Applicant has demonstrated the elements outlined in the Supreme court decision above to warrant being joined into this suit.
21. The first element is that an Applicant must demonstrate is a personal interest and stake in the case/proceedings that is clear and identifiable.
22. The Applicant herein avers that he is the current owner of the one of the suit parcel and has annexed a copy of the title deed as well as the certificate of official search.
23. On this account, it is the finding of this court that the Applicant has sufficiently demonstrated a personal interest in the suit that is clear and identifiable.
24. The second element is that the Applicant must establish the prejudice likely to be suffered is not joined.

25. It is the Applicant's claim that he stands being greatly prejudiced unless the Orders sought are granted since he is currently in occupation and use of the suit property and risks being adversely affected.
26. From a careful perusal of the Amended Plaint dated 14.12.2020, it seeks among other Orders cancellation of all the title deeds and for the Register to be rectified accordingly.
27. In addition to the above reliefs, the Plaintiffs are seeking a Permanent Injunction against all the Defendants as well as a Declaration that the sub-divisions created from the suit properties including LR.NO.KIPLOMBE/KIPLOMBE BLOCK 10 (GROWEL)/849 be declared illegal, fraudulent null and void.
28. Clearly therefore, the Applicant who is the registered owner of the sub-division known as LR.NO.KIPLOMBE/KIPLOMBE BLOCK 10 (GROWEL)/849 stands to be adversely affected by any Order of the Court issued without involving him in the proceedings.
29. The final element is that the Applicant must demonstrate the relevance of his case.
30. Based in the findings of the Court on the first and second elements hereinabove, the Court is of the considered view that indeed the Applicant is a necessary and relevant party in the proceedings before it.

ISSUE NO. 2 - WHETHER THE PRESENT APPLICATION IS MERITED

31. The Court having made a finding that the Applicant is a necessary and relevant party in the proceeding before it, then the present Application is merited.

ISSUE NO. 3 - WHO SHALL BEAR THE COSTS OF THE APPLICATION

32. This being an application for joinder, the Court is of the view that there will be no costs awarded to any party.

CONCLUSION

33. In conclusion, this Court hereby makes the following Orders in determination of the present Application; -

- A. **THE CHAMBER SUMMONS APPLICATION DATED 18.06.2025 IS MERITED AND ALLOWED.**
- B. **THE APPLICANT FRANCIS KIPSANG BII IS HEREBY JOINED AS AN INTERESTED PARTY HENCEFORTH.**
- C. **THERE WILL BE NO ORDERS AS TO COSTS.**

DATED, SIGNED and DELIVERED in ELDORET this 18TH DAY OF NOVEMBER, 2025.

EMMANUEL.M. WASHE
JUDGE

IN THE PRESENCE OF:

COURT ASSISTANT: Brian

COUNSEL FOR THE APPLICANT: Ms. Isiaho

COUNSEL FOR THE RESPONDENT:

- Ms. Mutai for the Interested Party
- Mr. Chemwok for 1st, 2nd, 3rd, 4th, 6th and 7th Defendant
- Mr. Too for the 9th Defendant