

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**  
**(FAMILY DIVISION)**  
**SUCCESSION CAUSE NO. 172 OF 1989**  
**IN THE MATTER OF THE ESTATE OF KATANA NDARAWA OMAR**  
**(DECEASED)**  
**RULING**

1. The firms of Oduor Simiyu & Co. Advocates and Marende Necheza & Co. Advocates entered into a consent dated **13<sup>th</sup> November 2019**. The terms of the said consent were that: -
  - i. The grant of letters of administration issued and confirmed herein be and is hereby revoked accordingly;
  - ii. The subsequent subdivisions and transfers made on Plot No Mtwapa/Kilifi/217 made following the issue of the grant be revoked and the said plot do revert to the name of the deceased;
  - iii. The land registrar of Kilifi District do reopen the register for the aforesaid plot for purposes of effecting order (ii) above without gazettelement; and
  - iv. There be no order as to costs.
2. The Court adopted the said consent on **25<sup>th</sup> November 2019**, and the appropriate order was issued.
3. The proposed interested party filed the Chamber Summons dated **12<sup>th</sup> May 2025** seeking to be added as an interested party, to be allowed to file documents and make submissions in this cause. Her grounds for seeking the said order are that she is the legal owner of Title No Kilifi/Mtwapa/1399, which

is a subdivision of Title No Kilifi/Mtwapa/217, having bought it from Ali Abdalla Ali Mascat. She contended that she was not informed, notified, or served with the proceedings of the Honourable Court leading to the orders of **25<sup>th</sup> November 2019**.

4. The applicant attached a sale agreement executed on **2<sup>nd</sup> September 2008** by the purported seller and herself. The parcel of land being sold was described as being Title No Kilifi/Mtwapa/1399.
5. Counsel for the 1<sup>st</sup>, 4<sup>th</sup>, and 5<sup>th</sup> interested parties opposed the application by filing the grounds of opposition dated **25<sup>th</sup> July 2025**, in which it was stated that the proposed interested party wasn't a beneficiary of the estate and ought therefore to file a claim at the Environment & Law Court rather than seek to be added to these proceedings.
6. The other interested parties did not oppose the application.
7. The submissions of the proposed interested party are dated **8<sup>th</sup> October 2025**. Those of the 1<sup>st</sup>, 4<sup>th</sup>, and 5<sup>th</sup> interested parties are dated **12<sup>th</sup> November 2025**.
8. I have considered the application, the responses thereto, as well as the submissions of the parties. The sole question in my view is whether this Court should add the applicant as an interested party.
9. I note that the applicant has attached a sale agreement which appears to show that she bought Plot 1399 in 2008, long before the consent was entered into. The effect of the consent is that her proprietary rights were affected by

the revocation consequent to the said order. As a party affected by the consent order, she ought to have been heard, or at the very least allowed to make submissions regarding the same.

10. That being the case her application meets the conditions joinder as an interested party set out in the case of **Gladys Nduku Nthuki v Letshego Kenya Limited; Mueni Charles Maingi (Intended Plaintiff) [2022] KEHC 2227 (KLR)**, as she is a necessary party being a claimant of a subdivision of the subject land, she is a proper party, relief flows in her favour and the ultimate decree cannot be enforced without her presence. Lastly, her presence is necessary for the proper adjudication of this matter.
11. In my view, the application dated **12<sup>th</sup> May 2025** has merit. The same is allowed as prayed.
12. I make no orders as to costs, as this is a succession matter.
13. It is so ordered.

**Dated** and signed at Mombasa, this **3<sup>rd</sup>** day of **December 2025**. Delivered virtually through **Microsoft TEAMS**.

**Gregory Mutai**  
**JUDGE**

In the presence of: -

No appearance for the Proposed Interested Party;

No appearance for the 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> Interested Parties;  
Mr Mwanzia, holding brief for Ms Katisya, for the 2<sup>nd</sup> Interested Party; and  
Ms. Norah – Court Assistant

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