

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT KAJIADO
ELCEPCC E053 OF 2025

JOSEPH NGIDA OLOOMONI..... PLAINTIFF

-VERSUS-

MBIRIKANI GROUP RANCH CO-OPERATIVE -
SOCIETY LIMITED.....1ST DEFENDANT

KINYAKU KONEI.....
....2ND DEFENDANT

MARIKA KITESHO.....
3RD DEFENDANT

DANSON MOLOIMET LEPAPA.....
4TH DEFENDANT

DANIEL METOE.....
.....5TH DEFENDANT

DANIEL MAPI.....
6TH DEFENDANT

SUYIANKA

LEPARAU.....7TH DEFENDANT
AND

GIDEON KETENTE AND –
2799 OTHER.....INTENDED INTERESTED PARTIES/APPLICANTS

RULING

{In respect of the Intended Interested Parties N.O.M dated 22/05/2025

seeking to be enjoined in this suit}

Introduction

1. Gideon Ketente and 2799 other proposed interested parties have approached this Honourable Court through a Notice of Motion Application dated 22nd May, 2025 seeking for the following orders:

1) This Honourable Court be pleased to grant leave to the Applicants to be joined in this suit as Interested parties.

2) The Honourable Court be pleased to grant leave to the Applicants to fully participate in the proceedings herein and file such pleadings, submissions and other documents to the joinder.

3) The Honourable Court be pleased to make any further orders that it may deem fit to grant.

4) Costs of this application be provided for.

2. The Application which is brought under the provisions of Sections 1, 1A, 1B, 3A and 63(e) of the Civil Procedure Act and Orders 1 and 51 Rule (1), (3) and (4) of the Civil Procedure Rules is supported by the Affidavit of Gideon Ketente who deposes that he is a member of both the Mbirikani Group Ranch and Mbirikani Group Ranch Co-operative Society Limited.

3. The Deponent avows that the intended interested parties are legal and beneficial members of Mbirikani Group Ranch and are entitled to shares of Mbirikani Group Ranch Cooperative Society Limited for they are either its registered members or currently being registered as its members. It is affirmed that according to the minutes of the meetings of the Group Ranch, it was agreed that the 1st Defendant Management Interim officials were the 5th to 7th Defendants. The officials were similarly confirmed through a ruling issued in **MCCOMMSU/E005/2024** on 6th December, 2024 as well as in the records from the Commissioner of Co-operative Societies.

4. The Intended Interested Parties contend that the orders sought in this suit will directly affect them because they are the ultimate beneficiaries of all assets held by the Group Ranch and the 1st Defendant. It is affirmed that as group members, they are entitled to financial and non-financial benefits arising from existing leases, new leases and other quasi-investments which they have been receiving. Further, the orders obtained from this suit are detrimental to them for the same has affected their

financial and non-financial benefits. They aver that they had legitimate expectations that they would soon be receiving financial support when Group Ranch members resolved to offer new leases to investors and extend existing leases for the benefit of the larger community.

5. According to the Applicants, the injunctive orders issued by this court restrained the allocation and acquisition of group ranch parcels of land to them yet they were legitimately entitled to be allocated plots within the townships of Nabulaa, Orng'osua, Isinet, Simba, Enkaji Naiborr, Ichalai, Kalesirua, Inkoisuk and Loolpipai thereby prejudicing them. Accordingly, it is asserted that their enjoinder in these proceedings will enable them to articulate their interests, avert any occasion of injustice and settle all questions involved in this suit.

6. The Plaintiff, Joseph Ngida Oloomoni through his Replying Affidavit sworn on 28th August, 2025 opposes the Application praying for its dismissal with costs terming it a non-starter as it shall overburden and delay these proceedings without advancing the cause of justice.

7. According to the Plaintiff, the interests of the over 2800 intended Interested Parties are adequately represented by the 1st Defendant, whose essence is to represent and protect the interest of its members. Further, all parties on record herein have sufficiently prosecuted the issues relating to membership, representation and use of property through the 1st Defendant.

8. It is the Plaintiff's case that the Intended Interested Parties have not demonstrated how their participation will add value to the case or assist the court in the just determination of this suit or any unique or additional interests beyond what is represented by the 1st Defendant. He asserts that a party only ought to be enjoined in a suit if they show that they have substantial interest in a suit or have a clear and unique purpose.

9. The 2nd, 3rd and 4th Defendants replied to the Application through the Replying Affidavit of Kinyaku Konei sworn on 25th October, 2025, who avers that given the Intended Interested Parties are comprehensively represented in this suit, their Application for joinder is redundant and unnecessary. This is because they have admitted that they are legal and

beneficial owners of Mbirikani Group Ranch and registered members of the 1st Defendant. They have similarly recognised the 1st Defendant's officials as the 5th to 7th Defendants.

10. It is averred that any issues which the Applicants wish to raise in this suit can adequately be raised by the 1st Defendant since its primary aim of participating in this suit is to safeguard and articulate the collective interests of its members. Additionally, the Applicants are not a distinct legal entity from the 1st Defendant neither are their interests inseparable. The Deponent avers that their joinder will not serve any meaningful purpose, introduce new dimensions to the suit nor enhance their representation. Instead, it shall be a duplicate representation and unnecessary expansion of the parties in this suit.

11. The 2nd, 3rd and 4th Defendants beseech the court to strike out and dismiss the Application with costs terming it frivolous, superfluous, unwarranted and meaningless in the adjudication of this suit. The participation of the Intended Interested Parties shall not add any value in the resolution of issues before this court nor prejudice them as their concerns can be

addressed by the 1st Respondent. Additionally, they have not demonstrated any unique or distinct interests justifying their separate joinder in this suit.

12. Although the 5th, 6th and 7th Defendants filed responses to the Application through their respective affidavits dated 26th June 2025, which were largely duplicative, they did not address the issue of the joinder of the Intended Interested Party into these proceedings.

13. Through a further Affidavit sworn on 4th September, 2025, the Applicants dismissed the objections by the Plaintiff and the 2nd to 4th Defendants alleging that they are contradictory, inconsistent and inequitable. It is avowed that the Plaintiff, as a beneficial member of the 1st Defendant, cannot argue that other members cannot be enjoined in these proceeding to protect their individual and collective interests yet he himself has instituted this suit in a personal capacity. Further, the 1st Defendant cannot be allowed to prosecute claims and rights of over 2799 members by denying them an audience before this court. It is maintained that the joinder of the Applicants in this suit shall not convolute nor overburden

this court for they shall file a ‘representative suit’ rather than a separate set of 2,799 pleadings.

14. According to the Deponent, exclusion of the Intended Interested Parties from these proceedings shall result in piecemeal and split litigation, leaving out unresolved questions, exposing the proceedings to further challenge and undermining the principle that litigation should comprehensively and finally resolve disputes. It is for this reason that their joinder in this suit will help the court in arriving at a just, equitable and conclusive determination of the real issues and questions in controversy.

Court Directions

15. With the concurrence of the Parties, the court issued directions to the effect that the Application be disposed of by way of written submissions. The court has had occasion to read and consider the submissions filed by the parties in writing this ruling.

Issues for determination

16. After a careful analysis of the Application, the affidavits filed in response thereto as well as the submissions on record, the key issue for determination is whether the Applicants have met the threshold for joinder as an interested parties.

Determination

17. The Intended Interested Parties allege that their participation in these proceedings will enable them to adequately articulate and address their issues as well as help the court in arriving at a just and equitable conclusion of this dispute. The Intended Interested Parties acknowledge that as members of Mbirikani Group Ranch, they recognise the 5th to 7th Defendants as officials of the 1st Defendant Management Committee. They further argue that as registered or currently being registered members of the 1st Defendant, they had legitimate expectation that they would receive funds since the 1st Defendant's members inclusive of themselves resolved to lease and extend various leases for the benefits of the larger community.

18. The Intended Interested Parties have pleaded that their legitimate expectation that they would be allocated Group Ranch's land was halted by orders issued by this court. Further, the orders similarly halted the financial and non-financial support received from the 1st Defendant.

19. Order 1 Rule 10 of the Civil Procedure rules grants this court the discretion to enjoin a party at any stage of the proceedings. The said provision provides as follows:

“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.”

20. The Court of Appeal in the case of *Yawa & 35001 others v Chome (Suing as the administrator of the Estate of the Late Mumba Chome Ngala (Deceased) & 19 others [2018] KECA 35 (KLR)* laid down principles that should govern the exercise of the court's discretion to enjoin a party in a suit by holding as follows:

“In as much as an application by a party to be joined to any proceedings should not be restricted, there are criteria to be met by the party intending to be joined. The criteria which are in no way exhaustive include:

- (1) The applicant must demonstrate that it would be desirable for him/her to be added as a new party and that his/her presence would enable court to resolve all the matters in the dispute.*
- (2) The joinder will not prejudice the other parties*
- (3) The joinder will not vex the parties or convolute the proceedings with unnecessary new matters and grounds not contemplated by the parties or envisaged in the pleadings.”*

21.In, Trusted Society of Human Rights Alliance v Matemo & 5 others

[2014] KESC 32 (KLR), the Supreme Court defined an interested party

in the following words;

“Consequently, 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.”

22. It is not in dispute that the Intended Interested Parties and the Plaintiff in this case are members of the 1st Defendant cooperative society as well as Mbirikina Group Ranch. These parties likewise acknowledge that the 5th to 7th Defendants are the officials of the 1st Defendant. The Plaintiff and the 1st, 2nd, 3rd and 4th Defendants have argued that participation of the Applicants in these proceedings is not necessary because the issues they seek to adjudicate on are well articulated by the 1st Defendant and can be prosecuted by the parties on record. The Applicants have similarly been

condemned for failure to justify their enjoinder in these proceedings.

The 2nd, 3rd and 4th Defendants position with respect to participation of the Applicants is that it shall lead to duplicated representation and unnecessary expansion of parties yet their participation does not add any value to these proceedings.

23. A hasty scrutiny of Plaintiff shows that the issues raised by the Plaintiff revolve around corporate governance of the 1st Defendant which has significantly affected its members' financial resources and investment due to unlawful actions by a few officials. Hence, the Plaintiff seeks issuance of a permanent injunction against the Defendants in this suit from disposing off the disputed property or any other property held by the 1st Defendant in the townships of Nabulaa, Orng'osua, Isinet, Simba, Enkaji Naiborr, Ichalai, Kalesirua, Inkoisuk and Loolpipai. The Applicants have alleged that they anticipated to be allocated these parcels were it not for the orders issued by this court.

24. Given that the issues raised by the Intended Interested Parties touch on the Applicants' proprietary interests resulting from the dissolution of

Mbirikani Group Ranch, their desire to be enjoined in these proceedings is not without good factual and legal basis. The Plaintiff himself is a member of the 1st Defendant Co-operative society yet he instituted this suit to safeguard his interests. There is no justification to deny the Applicants from participating and safeguarding their legal interests too. This is because the final outcome of this suit will most likely touch on the manner in which the disputed property shall be disposed of and apportioned.

25. Consequently, I find that the Notice of Motion Application dated 22nd May 2025 is merited and proceed to allow it as prayed.

26. The costs of the Application shall be in the cause.

It is ordered.

Dated Signed and Delivered at Kajiado Virtually this 11th Day of December 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

Ms. Korir h/b for Mr. Kiprop for the Plaintiff

Ms. Khafafa together with Mr. Pareno for the 1st Defendant

Mr. Musonye h/b for Mr. Kamenju for the 2nd, 3rd and 4th Defendants

Mr. Pareno h/b for Mr. Maina Makome for the 5th – 7th Defendants

Mr. Oriema for the Interested Parties

Court Assistant: Mpoye

M.D. MWANGI

JUDGE