

REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT AT VOI

ELCEPCC CASE NO. E003 OF 2024

AFIZI NYAMBU IBRAHIM & 8 OTHERS

.....PLAINTIFFS

-VERSUS-

GEODEV (K) LIMITED.....1ST

DEFENDANT

TAITA TAVETA PHYSICAL PLANNING AND

ADJUDICATION OFFICE2ND

DEFENDANT

MWATATE LAND SETTLEMENT & DISPUTE RESOLUTION

COMMITTEE.....3RD

DEFENDANT

COUNTY GOVERNMENT OF TAITA TAVETA4TH

DEFENDANT

GEN. LUCAS MWANG'OMBE LENJO

LT. COL. HAROLD TANGAI MWAKIO

MAJOR CALIST D. MWAMBURI

MAJOR JOEL GABRIEL MSHINDO

HON. PETER MBOGHO MWANG'OMBE

PETER KAMAU NJUGUNAINTENDED 5TH TO 10TH

DEFENDANTS

RULING

1. This ruling is in respect to the 1st Defendants application dated 30th September 2025 which seeks to join **GEN. LUCAS MWANG'OMBE LENJO, LT. COL. HAROLD TANGAI MWAKIO, MAJOR CALIST D. MWAMBURI, MAJOR JOEL GABRIEL MSHINDO, HON. PETER MBOGHO MWANG'OMBE and PETER KAMAU NJUGUNA** as 5th to 10th Defendants in these proceedings.
2. The application is supported by the grounds on its face and the Affidavit sworn by Evance Otieno on 30th September 2025.

3. It was deposed that the dispute herein concerns ownership records between the Plaintiffs and the persons listed as the intended 5th to 10th Defendants and thus effective and complete adjudication of the dispute requires their participation.
4. It was further deposed that Peter Kamau Njuguna purchased parcel no. 177 from the brothers of the 1st Plaintiff who are Abushiri Mwanyasi and Feizal Kizongona Ibrahim as indicated in the sale agreement dated 21st July 2014 listed as annexure "E03".
5. It was further deposed that Gen. Lucas Mwangombe Lenjo, Lt. Col. Harold Tangai Mwakio, Major Calist D. Mwamburi and Major Joel Gabriel Mshindo were allocated parcels within parcel no. 185 by the then Local Authority and thereafter sold his parcel to Hon. Peter Mbogho Mwang'ombe.
6. It was averred that the records provided herein date back from 1992 or thereabouts and its only fair that the intended defendants be joined to these proceedings owing to their interest and stake in the matter.

7. The application was opposed by the Plaintiffs vide a replying affidavit sworn by Afizi Nyambu Ibrahim on 5th October 2025. It was deposed that the application is not merited having been filed out of time without leave of the court, the Defendants have no power to force the Plaintiffs to amend their pleadings to include a Defendant whom they have no case against and further that the intended Defendants should have been joined as third parties or interested parties and not Defendants. It was further averred that the intended Defendants are not known to the Plaintiffs and hence the application should be dismissed with costs.
8. The application was canvassed by way of written submissions pursuant to the directions that were issued by this court. The 1st Defendant filed written submissions dated 31st October 2025 while the Plaintiffs filed written submissions dated 30th October 2025 which the court has duly considered.
9. Having considered the application and written submissions filed by both parties, the sole issue for determination is

whether the intended 5th to 10th Defendants should be joined to these proceedings.

10. **Order 1 Rule 10, (2) of the Civil Procedure Rules**, outlines 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 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.”[Emphasis mine]

11. The principles for joinder are well outlined in in **Meme v Republic (2004)1 124, eKLR** which are:

“

- a) *Joinder of a person because his presence will result in the complete settlement of all questions involved in the proceedings;*

- b) Joinder to provide a protection of a party who would otherwise be adversely affected in law;
- c) Joinder to prevent a likely course of proliferated litigation.”

12. In essence, any natural person who may not be a party to proceedings and has an interest in the subject matter of such proceedings to the extent that they will undeniably be affected by court’s decisions, is for all intents and purposes a necessary party, and would therefore be joined to the proceedings to protect his or her interests.
13. Equally the Court in **Gladys Nduku Nthuki v Letshego Kenya Limited; Mueni Charles Maingi (Intended Plaintiff) [2022] KEHC 2227 (KLR)** reiterated the longstanding test for joinder, as established in **Kingori v Chege & 3 Others [2002] 2 KLR 243**, outlining the factors to consider in applications for joinder of parties. These factors include whether the party is necessary and proper, and whether their participation would avoid the multiplicity of proceedings. The Court held that when a party is directly

affected by a decree, the court should exercise its discretion in favor of including them. Additionally, the Court referenced the decision of the Court of Appeal in Tanzania in **Tang Gas Distributors Ltd v Said & Others [2014] EA 448**, where the Court stated that:

“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 even 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. In the instant case, the 1st Defendant has provided documentary evidence demonstrating that the intended 5th to 10th Defendants hold a proprietary interest in the suit

parcels and hence therefore they are eligible to join these proceedings to enable the Court make a fair, conclusive and just determination on the dispute herein.

15. The Court has further considered the fact that the matter is yet to proceed for hearing nor the pretrial conference and hence therefore the Plaintiffs shall have an opportunity to present their case against the intended Defendants.

16. In view of the foregoing, the Court is satisfied that it is necessary to join the intended 5th to 10th Defendants as parties to the suit.

17. Consequently, it is the finding of this Court that the application dated **30th October 2025** is merited and the same is allowed in the following terms;-

i) GEN. LUCAS MWANG'OMBE LENJO, LT. COL. HAROLD TANGAI MWAKIO, MAJOR CALIST D. MWAMBURI, MAJOR JOEL GABRIEL MSHINDO, HON. PETER MBOGHO MWANG'OMBE And PETER KAMAU NJUGUNA are hereby joined to

this suit as the 5th to 10th Defendants respectively.

ii) The 5th to 10th Defendants shall have 30 days to file and serve their pleadings.

iii) Each party to bear own costs of the application.

It is so ordered.

**Dated, Signed and Delivered virtually at Voi this 17th
December 2025**

**E.K. WABWOTO
JUDGE**