

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**  
**ELCLC NO. E085 OF 2025**

**THE LAKE REGION MICRO-MICRO-CREDIT  
ENTERPRISES T/A KENYA INTERNATIONAL  
FISHERIES DEVELOPMENT AND FISH  
SUPPLIERS AGENCY.....**  
**PLAINTIFF**

**VERSUS**

**THE HONOURABLE ATTORNEY  
GENERAL OF REPUBLIC OF KENYA.....1<sup>ST</sup>**  
**DEFENDANT**

**LAND REGISTRAR NAIROBI.....2<sup>ND</sup>**  
**DEFENDANT**

**CHARLES NDUNG'A WAMBUA.....3<sup>RD</sup>**  
**DEFENDANT**

**MWANA MUKIA HOUSING  
CO-OPERATIVE SOCIETY LIMITED.....4<sup>TH</sup>**  
**DEFENDANT**

**ROBERT WAIRIRI ..... 5<sup>TH</sup>**  
**DEFENDANT**

**GEOFFEREY NGUGI GITHUA .....6<sup>TH</sup>**  
**DEFENDANT**

**AND**

**IVY ATIENO ODHIAMBO.....1<sup>ST</sup> INTERESTED  
PARTY/APPLICANT**

**MARBEL RISPER ODHIAMBO.....2<sup>ND</sup> INTERESTED  
PARTY/APPLICANT**

**RULING**

1. Before me is the chamber summons dated 4<sup>th</sup> April, 2025 filed by the interested parties/applicants, and it is expressed to be brought under **Orders 1 Rules 10 and 14, Order 40** of the **Civil Procedure**

**Rules, Sections 3A of the Civil Procedure Act** seeking the following orders:-

- 1. Spent.**
  - 2. THAT the honourable court be pleased to join the Interested Parties/Applicants as an interested party to the suit and to be allowed to participate in the proceedings.**
  - 3. Spent.**
  - 4. THAT the honourable court be pleased to issue a temporary injunction against the respondents herein whether by themselves, agents, servant and/or persons acting under their instructions from selling, subdividing alienation or otherwise interfering, attaching or dealing in whichever way with Plot No. 1188 Kasarani pending the hearing and determination of this suit.**
  - 5. The costs of this application be provided for.**
  - 6. The honourable court be pleased to make such further orders as it may deem just and expedient in the circumstances of this case.**
2. The application is premised on the grounds on its face, and in the supporting affidavit of the 1<sup>st</sup> interested party/applicant sworn on even date. The interested party/applicant deposed that together with her sister, they are the beneficial owners of all that property known as plot no. 1188 Kasarani duly registered in the name of

Moses Timothy Odhiambo under membership No. 1495 registered on the 13<sup>th</sup> March, 2006.

3. She further deposed that succession proceedings for the estate Moses Timothy Odhiambo were instituted vide Milimani High Court Succession Cause No. 780 of 2018 and the confirmed grant of letters of administration issued on 19th June, 2024.
4. She deposed that Wycliffe Ochieng, uncle to the interested parties/ applicants herein filed an objection application which was never prosecuted but was dismissed. She added that the plaintiff/respondent through deceit, colluded with others not before this court and caused the irregular and illegal sale of Property Plot no. 727 share certificate 2286 registered with Chieko Housing Limited which matter is pending at Milimani Magistrate Court in MCELC No. 384 of 2021.
5. The 1<sup>st</sup> interested party/applicant further deposed that a guarantor in this case Wycliffe Ochieng had no powers and/or capacity to dispose of property for a loan he guaranteed and thus, the actions of the guarantor amounted to an illegality rendering the entire sale and transfer void ab initio. She further deposed that it was necessary for them to be joined in this suit to enable and assist the

court to effectually and competently determine questions involved in the dispute.

6. She deposed that as the beneficial owners of the suit property, any determination made in this suit will defeat their interests in the suit property.
7. The 6<sup>th</sup> defendant/respondent filed his replying affidavit sworn on 13<sup>th</sup> July, 2025. He deposed that he is the beneficial owner having purchased the suit property known as NAIROBI BLOCK 171/425, and commenced the registration of the same in his name. He further deposed that he had conducted due diligence through the vendor, 4<sup>th</sup> defendant/respondent, who was the registered proprietor and in lawful possession of the said property at the material time. He added that the intended interested parties/applicants have not demonstrated any registered interest in the suit property or any cause of action against him.
8. The 6<sup>th</sup> defendant/respondent further deposed that he had instructed his advocates to initiate appropriate proceedings for revocation or cancellation of the confirmed grant issued in Milimani High Court Succession Cause No. 780 of 2018, and that the present application by the intended interested parties/applicants does not meet the threshold for joinder under

**Order 1 Rule 10(2)** of the **Civil Procedure Rules**, as their participation is neither necessary nor useful for the determination of the existing issues between the plaintiff and the defendants.

9. Further, that allowing the said joinder will cause undue delay, introduce unnecessary issues, and complicate proceedings to the detriment of parties who are already properly before the court. He urged the court to dismiss the application with costs.
10. The plaintiff/respondent filed its replying affidavit sworn on 17<sup>th</sup> April, 2025 by David Ochieng Opon, who is its Director. The plaintiff/respondent deposed that it followed the due process in acquiring and disposing off the suit parcel. Further, that the allegation by the interested parties/applicants that the suit property is part of the estate of Moses Timothy Odhiambo is misconceived and misguided. The plaintiff/respondent further deposed that the interested parties/ applicants were guilty of laches having taken 5 years since the matter in HCCC 119 of 2019 got dismissed to file the present application. It was averred that the instant application is an afterthought and ought to be dismissed with costs.
11. The application was canvassed by way of written submissions. The interested parties/applicants filed their written submissions dated

9<sup>th</sup> July, 2025, the plaintiff/respondent filed its written submissions dated 7<sup>th</sup> July, 2025 while the 6<sup>th</sup> Respondent filed his submissions dated 13<sup>th</sup> July, 2025.

12. I have considered the application, the replies thereof and the written submissions filed by the parties. The issue for determination is *whether the interested parties/applicants should be joined in these proceedings.*
13. **Order 1 Rule 10(2)** of the **Civil Procedure Rules** 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.”*

14. In the case of **Muruatetu & another V Republic; Katiba Institute & 5 others (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR)** the court laid down the

guiding principles applicable in determining an application to be joined as an interested party. In its judgment under paragraph 37, it held as follows:-

***“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 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.”***

- 15.** It was the interested parties/applicants' case that they are necessary parties to the suit since they were beneficiaries to the suit land by virtue of the confirmed grant. The plaintiff/respondent on the other hand contends that the interested parties/applicants are not necessary parties to the suit since the suit property was a security for loan advanced to the deceased.
- 16.** Further, the 6<sup>th</sup> defendant/ respondent argued that he was a beneficiary to the suit property and that he had filed an application for revocation of grant on the ground that he was a bonafide purchaser for value having purchased the suit property from the 4<sup>th</sup> defendant.
- 17.** This court has keenly perused the court record and it is not in dispute that the interested parties/ applicants were issued with a certificate of confirmation of grant of the deceased's estate issued on 19<sup>th</sup> June, 2024 that listed them as the beneficiaries of the estate. It is also not in dispute that the suit property forms part of the deceased estate.

**18.** It is this court's view that the outcome of this case will surely have an impact on the deceased estate since there's already a certificate of grant issued. I find that the interested parties/applicants have an identifiable stake to this suit and it would be in the interest of justice that they be joined in this suit so as to effectually decide the issues.

**19.** In the circumstance, the interested parties/applicants are joined to this suit as the 7<sup>th</sup> and 8<sup>th</sup> defendants respectively. Each party to bear its own costs.

Orders accordingly.

**DATED, SIGNED & DELIVERED VIRTUALLY  
THIS 19<sup>TH</sup> DAY OF DECEMBER, 2025.**

**HON. MBOGO C.G.  
JUDGE  
19/12/2025.**

**In the presence of:**

*Mr. Benson Agunga - Court assistant*

*Mr. Atanda for the Plaintiff/Respondent*

*Mr. Muatine holding brief for Mr. Kamonjoh for the 4<sup>th</sup> and 5<sup>th</sup>  
Defendants/Respondents*

*Ms. Wacheke Thindigua for the Interested parties/Applicants*

*Mr. Mwangi holding brief for Mr. Wambugu for the 6<sup>th</sup>  
Defendant/Respondent*