

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAROK

ELC CAUSE NO. 466 OF 2017

FORMERLY KISII ELC NO. 930 OF 2016

MICHAEL LINKAT & 2 OTHERS.....PLAINTIFFS

-VERSUS -

DAVID LEBOO KILUSU & 2 OTHERS.....DEFENDANTS

RULING

I have read the application before me and the submissions filed by counsel. The instant application is for joinder of the interested party Oloololo game ranch limited which is the registered owner of that parcel of land known as NAROK/TRANS MARA/OLOOLOLO which borders land parcel Trans Mara/Kimintet 'D' 480 in which the proprietors of land parcel Trans Mara/Kimintet 'D'/488 have filed suit against the respondent.

In the application the applicant is asking the court to use its discretion. Order 1 Rule 10 of the Civil Procedure Rules provides that the court may at any stage of the proceedings either on its own motion or by an application by a party if it new that the issues raised by the applicant will assist the court effectively and completely adjudicate upon the issues for determination.

Having heard the application before me I find that the issues raised by the applicant shows that the applicant has a stake in the proceedings and the issues he raises will assist the court in making a just determination of the matter.

In view of the above I will allow the application dated 6th February, 2019 and order that the interested party herein be enjoined in the suit.

On the prayer of an order directing the registrar and surveyor Trans Mara to visit the suit properties, I find that this prayer is premature as the applicant will have the opportunity to cross examine the plaintiffs and defendants witnesses when the suit commences for hearing and in the event that there will be need for the aforesaid report the applicant will be at liberty to move the court appropriately.

As for costs each party shall bear its costs on the application.

Mohammed Kullow

Judge

28/6/19

In the presence of:-

Ms Ochwal for the Plaintiff/applicant

N/A for the respondent

CA:Chuma