

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

HIGH COURT CIVIL CASE NO. E002 OF 2024

STEPHEN MAINA MUREITHI.....1ST

PLAINTIFF/RESPONDENT

MARGARET WANJIKU GIKUNGU.....2ND

PLAINTIFF/RESPONDENT

ANTHONY WACHIRA MUCHEMI.....3RD

PLAINTIFF/RESPONDENT

DUNCAN MWANGI MUIGA.....4TH

PLAINTIFF/RESPONDENT

HENRY KARUCI KIBORO.....5TH

PLAINTIFF/RESPONDENT

VERSUS

HARON MAINA GATHONDU.....1ST

DEFENDANT/RESPONDENT

LUCY GATHIGIA.....2ND

DEFENDANT/RESPONDENT

**SATIMA PEAK FARMERS LTDINTERESTED
PARTY**

AND

**GODFREY WACHIRA MUIGA.....INTENDED/INTERESTED
PARTY**

**LUCY GATHIGIA.....INTENDED/INTERESTED
PARTY**

RULING

1. Before this Court is the Notice of Motion application dated **24th
March**

**2025 by which the Intended Interested parties GODFREY
WACHIRA MUIGA and LUCY GITHAIGA** seek the following
orders:-

**“1. THAT leave be granted to Godfrey Wachira Muiga
and Lucy Githaiga to be enjoined as Interested
Parties herein.**

**2. THAT this Honourable Court be pleased to order
the Applicant be served with all pleadings in this
suit.**

3. THAT the costs of this Application be provided for.”

2. The application was premised upon **Articles 47, 48 and 50(1) of the Constitution of Kenya 2010, Section 3(1) of the Judicature Act Cap 8 Laws of Kenya Rule 7(1) of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013** and all enabling Laws and was supported by the Affidavit of even date sworn by the 1st Intended Interested Party.

3. The Respondent opposed the application through the Replying Affidavit dated **22nd October 2025** sworn by **CYRUS KING'ORI** the 2nd Respondent. The matter was canvassed by way of written submissions. The Plaintiff did not file any submissions whilst the Defendant filed submissions which were not dated.

BACKGROUND

4. **SATIMA PEAK FARMERS LIMITED** (hereinafter ‘the Company’) is a limited liability company which was registered on **17th June 1969**.

5. The Applicants aver that the company is wasting away and is not headed in the right direction. That following a meeting of the members a committee was selected by the members to follow upon the members interests in the company. The Applicants state that they were elected together with the Respondent to institute a derivative suit to follow up the status of the company. The 1st Applicant was elected as secretary whilst the 2nd Applicant was a committee member. (the application for leave to file a derivative suit was dismissed by this court vide the Ruling delivered on **20th December 2024**)
6. The Applicants contend that they ought to be included in the present suit in order to safe-guard the interests of the members who elected them as the final decision made by the court will directly impact the Applicants and those whom they represent. That no prejudice will be caused to any party if the Applicants are included in this suit.
7. The Respondents in opposing the application stated that the application before court does not meet the requirements of the Registrar of companies. They state that the 1st

defendant only joined the company in **May 2016** thus he has no knowledge of the long history of the litigation involving the company.

8. The Respondents further state that there is no evidence of this alleged meeting at which the Applicants were selected to represent the interests of the other members.

ANALYSIS AND DETERMINATION

9. I have considered the application before this Court, the reply filed thereto as well as the written submissions filed by both parties. The only issue for determination is whether the Applicants have met the requirements enjoined as interested parties in this matter.
10. **Blacks Law Dictionary 9th Edition** defines an Interested party as one **“Who has a recognizable stake”** and therefore has standing in a matter.
11. **Order 1 Rule 10(2) of the Civil Procedure Rules 2010** provide 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, 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.”

12. Additionally, **Rule 7** of the **Constitution of Kenya (Protection of Rights & Fundamental Freedoms) Practice & Procedure Rules 2013** provides that an interested party can apply to be enjoined or the Court can move suo moto and enjoin a party to proceedings before it. **Rule 2** thereof defines an interested party as a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the Court but is not a party to the proceedings or may not be directly involved in the litigation.
13. In **COMMUNICATIONS COMMISSION OF KENYA & 4 OTHERS -VS- ROYAL MEDIA SERVICES LIMITED & 7 OTHERS [2014] eKLR**, the **Supreme Court of Kenya** defined an interested party as follows:-

“An interested party is one who has a stake in the proceedings, though he/she was not a party to the cause ab initio. He/she is one who will be affected by the decision of the Court when it is made, either way a person feels that his interest will not be articulated unless he or she himself/herself appears in the proceedings and champions his or her cause.”

14. In the case of **Sikor Estate Limited & 5 others v Agricultural Development Corporation & Another (2015) eKLR Justice Sila Munyao** (as he then was) stated as follows:-

“In my view, for one to convince the Court that he/she needs to be enjoined to the suit as an Interested Party, such person must demonstrate that it is necessary that he/she be enjoined in the suit, so that the Court may settle all questions involved in the matter. It is not enough for one to merely show that he/she has a cursory interest in the subject matter of litigation. Litigation

invariably affects many people. A Judgment or order in most cases does not only affect the litigants in the matter. It does have ramification for others as well and one may very well argue that these others have an interest in the litigation. That is a fair argument, but a mere interest, without a demonstration that the presence of such party will assist in the settlement of the questions involved in the suit, is not enough to entitle one be enjoined in the suit as an Interested Party.”

15. In the case of **Francis Karioki Muruatetu & Another v Republic &**

5 Others, Petition 15 as consolidated with 16 of 2013 [2016] eKLR the **Supreme Court** set out three principles to be followed. In allowing such an application for enjoinder:-

a) 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.

b) 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.

c) 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.

16. The Applicants being members of the company obviously have a

stake in and are likely to be affected by the outcome of any litigation

involving the company.

17. The Respondents argue that the 1st applicant only joined the company

in **May 2016** and is not suitable to be enjoined. However a member

remains a member and stands to be equally affected regardless of when

they may have joined the company.

18. The Respondents further deny the claim by the Appellants that the

company was wasting away. However the very fact that the company

has been embroiled in litigation for over **sixty (60) years** is a clear

indication that all is not well. The Applicants and those members whom

they represent would be prejudiced if they were to be kept in the dark

regarding company affairs.

19. Finally I find merit in this application. I direct that **GODFREY**

WACHIRA MUKIA and **LUCY GITHAIGA** be and are hereby enjoined
as Interested Parties in this Suit. Each side to meet their own costs for
this application. It is so ordered.

Dated in Nyeri this 20th day of February, 2026

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MAUREEN A. ODERO
JUDGE