



LNLM v DKK; Chiromo Lane Medical Centre (Interested Party) (Family Miscellaneous Civil Case E013 of 2024) [2026] KEHC 2093 (KLR) (19 February 2026) (Ruling)

Neutral citation: [2026] KEHC 2093 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
FAMILY MISCELLANEOUS CIVIL CASE E013 OF 2024
FN MUCHEMI, J
FEBRUARY 19, 2026**

BETWEEN

LNLM APPLICANT

AND

DKK RESPONDENT

AND

CHIROMO LANE MEDICAL CENTRE INTERESTED PARTY

RULING

1. The application for determination dated 27th October 2025 seeks for orders to the effect that Chiromo Lane Medical Centre be joined as an interested party in this application and for it to be ordered to issue to the applicant her treatment notes and discharge summary that preceded her discharge from their facility on 15th May 2019 under inpatient No. XXXX/19. The applicant further seeks for leave to be granted to amend the Originating Summons.
2. In opposition to the application, the respondent filed a Replying Affidavit dated 19th January 2026.

Applicant’s Case

3. The applicant states that she was hospitalized at Chiromo Lane Medical Centre around May 2019 and was discharged on 15th May 2019. During the said period, the applicant avers that the respondent coerced her and fraudulently forced her into signing transfer of ownership of the matrimonial home situated at Upmarket Ridgeways Estate Nairobi LR. XXX/135 from joint ownership to the respondent’s sole ownership and resignation from directorship of all the companies where she was a co-director with the respondent.



4. The applicant states that the discharge summary and the entire treatment notes for the period of admission at the facility is relevant in determining the question of whether the transfers were regular. The applicant further states that she has written several letters through her advocates on record and physically visited the facility for the treatment notes and discharge summary but the facility has only provided a discharge summary.

The Respondent's Case

5. The respondent states that the application is bad in law and devoid of merit as the allegations of fraud, coercion and undue influence are founded on malicious falsehoods, misapprehension of the facts and a fundamental misunderstanding of the applicable legal principles and unsupported by any credible evidence. The respondent further states that the applicant is guilty of laches the application having been brought at an inordinately late stage as a mere afterthought, long after the proceedings had commenced and even after the parties had already been subjected to court sanctioned mediation.
6. The respondent states that he shall be prejudiced as granting the application would reopen settled issues, expand the scope of the dispute and subject him to fresh allegations and proceedings long after the matter has substantially progressed. Consequently, the respondent argues that the application is an abuse of the court process and is calculated to delay the expeditious determination of the matter.
7. Parties disposed of the application by way of written submissions with the respondent choosing not to put in any submissions.

The Applicant's Submissions

8. The applicant relies on the cases of *Trusted Society of Human Rights Alliance v Matemo & 3 Others* (Petition 12 of 2013) [2015] KESC 26 (KLR) (17 June 2015) (Ruling) and *Kamau v Kamau & Another; Kihungi (Interested Party) (Environment & Land Case E114 of 2024)* [2024] KEELC 7215 (KLR) (31 October 2024) (Ruling) and submits that the proposed interested party should be enjoined in the suit as they can inform the court on her state of mind at the time she was admitted at their facility and transferred the matrimonial property thereby protecting her matrimonial rights.
9. The applicant further relies on the case of *Makenzi v Mutonde & 7 Others* (Environment and Land Case E031 of 2022) [2023] KEELC 21828 (KLR) (22 November 2023) (Ruling) and submits that the requested discovery is meant to expedite the trial and protect her rights and thus the respondent shall not be prejudiced.

The Law.

Whether the application has merit

10. The principles for joinder of an interested party in a suit are well settled. The Supreme Court in the case of *Francis Kariuki Muruatetu & Another v Republic & 5 Others as consolidated with 16 of 2013* [2016] eKLR set down the principles of joinder as follows:-

From the foregoing legal provisions and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

- a. One must move the court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence sufficient grounds must be laid before the Court on the basis of the following elements:



- b. 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.
 - c. The prejudice to be suffered by the intended interested party in the case of non joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.
 - d. 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.
11. Earlier in the case of *Communications Commission of Kenya & 4 Others v Royal Media Services Limited & 7 Others* [2014] eKLR the Supreme Court affirmed that:-

“In determining whether an applicant should be admitted into these proceedings as an interested party we are guided by this Court’s ruling in the *Mumo Matemo Case* where the Court (at paragraphs 14 and 18) held:

An interested party is one who has a stake in the proceedings, though he or she was not party to the case 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.”

12. In the instant case, the applicant seeks for orders that the interested party be joined in the proceedings to determine her state of mind when she transferred the matrimonial home to the respondent thereby protecting her matrimonial rights. Applying the principles of joinder to the instant matter, it is my considered view that the proposed interested party does not have any stake in the proceedings and neither will it be affected by the decision of this court. I do not find it appropriate to drag a whole institution like the Interested Party to this case whereas the applicant is capable of obtaining alternative evidence to support her case. I am not persuaded that the proposed interested party has demonstrated identifiable stake in these proceedings.
13. The applicant has further sought leave to amend the Originating summons. Rule 19 of the Matrimonial Property Rules provides for amendment of pleadings with the leave of the court when the respondent has filed a reply to the summons. Amendment of pleadings is to enable parties to alert their pleadings to reflect the true state of affairs which they intend to rely on. In the case of *Institute for Social Accountability & Another v Parliament of Kenya & 3 Others* [2014] eKLR, the court held:-

“The object of amendment of pleadings is to enable the parties to later their pleadings so as to ensure that the litigation between them is conducted, not on false hypothesis of the facts already pleaded or the relief or remedy already claimed, but rather on the basis of the true state of the facts which the parties really and finally intend to rely on. The power of amendment makes the function of the court more effective in determining the substantive merits of the case rather than holding it captive to form of the action or proceedings.....The court will normally allow parties to make such amendments as may be necessary for determining the real questions in controversy or to avoid a multiplicity of suits, provided there has been no undue delay, no new or inconsistent cause of action is introduced and no vested interest or accrued legal right is affected and that the amendment can be allowed without an injustice to the other side.



Thus from the above, the amendment should not introduce new or inconsistent cause of actions or issues, the amendment should be made timeously; it should not affect any vested interest or accrued legal right and it should not prejudice or cause an injustice to the other party which prejudice or injustice cannot be compensated by costs."

14. The suit was instituted vide Originating Summons on 6th September 2024 and the instant application for amendment was made on 28th October 2025, one year later. The matter has however not proceeded for hearing as parties tried to sort out the matter through mediation. On 9th July 2025 the parties informed the court that the mediation process was partly successful but they could not come to an agreement and thus sought to have the matter heard by the court. Therefore, it is my considered view that there has been no delay in making the application as the parties agreed to proceed to hearing of the case on 9th July 2025.
15. However, the proceedings of the court show that on 28th October 2025 the issue of amending the Originating Summons (O.S.) was brought up by the applicant. The respondent's counsel was not opposed to the said intention. Mr. Ashitiva indicated that he had no opposition to amendment of the O.S. This court granted leave of fourteen (14) days to the applicant to amend the O.S. It is noted that to date the O.S. has not been amended. It seems there was breakdown of communication that may have made the applicant not to act on the matter.
16. Consequently, this court grants leave of fourteen (14) days to the applicant to amend the Originating Summons and serve the respondent, failure to which these orders will stand vacated.
17. This application is partly merited.
18. The applicant to pay half of the respondent's costs.
19. It is hereby so ordered.

RULING DELIVERED VIRTUALLY DATED AND SIGNED AT THIKA THIS 19TH DAY OF FEBRUARY 2026.

**F. MUCHEMI
JUDGE**

