



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC LC NO. E508 OF 2025**

**TARABANA COMPANY LIMITED.....**

**PLAINTIFF/RESPONDENT**

**= VERSUS =**

**NATIONAL LAND COMMISSION.....1<sup>ST</sup>**

**DEFENDANT/RESPONDENT**

**HON ATTORNEY GENERAL.....2<sup>ND</sup>**

**DEFENDANT/RESPONDENT**

**ROSPATECH COMPANY LIMITED.....3<sup>RD</sup>**

**DEFENDANT/RESPONDENT**

**AND**

**HARCHARAN SINGH SEHM.....INTENDED  
INTERESTED PARTY/APPLICANT**

**RULING**

1. Before me for determination is the Notice of Motion dated 29<sup>th</sup> October 2025 brought under Order 1 Rule 10 and Order 51 Rule 1 of the Civil Procedure Rules and Sections 1A, 1B, 3 and 3A of the Civil Procedure Act, in which the Applicant seeks the following orders:

**a) Spent.**

**b) The Honourable Court be pleased to join Harcharan Singh Sehmi as an interested Party in this suit.**

**c) THAT the Intended Interested Party be granted leave to file an affidavit in opposition to the Plaintiff's application dated 3<sup>rd</sup> October 2025 as per the draft annexed to the affidavit in support of the application.**

**d) THAT this Honourable Court be pleased to make any other or further order in the interest of justice and fairness.**

**e) THAT the cost of this application be in the cause.**

2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Harcharan Singh Sehmi, sworn on even date.

### **THE APPLICANT'S CASE**

3. The Applicant averred that he is one of the bona fide owners of the suit property as confirmed by a judgment of the Supreme Court dated 11<sup>th</sup> April, 2025, in SCPT E033 of 2023. He further averred that the Supreme Court issued specific orders against the Plaintiff to demolish buildings erected on the suit property within 6 months of the judgment date.
4. He argued that the Plaintiff failed to disclose to the Court that he had filed a similar application dated 29<sup>th</sup> September 2025 at the Supreme Court, where he was denied interim relief. He further stated that the Plaintiff's application was based on misleading grounds as the Plaintiff had conducted a valuation of the suit property.

### **THE PLAINTIFF/RESPONDENT'S CASE**

5. The Plaintiff filed a reply affidavit dated 13<sup>th</sup> November, 2025, in opposition to the application. He acknowledged that the Applicant is the bona fide owner of the suit property. He argued that a government valuer should conduct a valuation of the suit property because the report by the Applicant's valuer

was prepared more than three months ago and may not reflect the current market value due to inflationary trends.

6. The Respondent contends that the cause of action herein differs from the issues raised in the Supreme Court case. He further contends that the application for joinder is intended to delay the determination of this suit.
7. The application was canvassed by way of written submissions.

### **THE INTENDED INTERESTED PARTY'S SUBMISSIONS**

8. The Intended Interested Party filed his submissions dated 30<sup>th</sup> January 2026.
9. On behalf of the Applicant, Counsel submitted that the Intended Interested Party had met the threshold for joinder because he has demonstrated a direct and identifiable interest in the suit property. Counsel further submitted that the Supreme Court, in its judgment of 11<sup>th</sup> April 2025, declared the Applicant the registered owner of the suit property. It was further submitted that the Plaintiff, in his replying affidavit, acknowledged that the Applicant is the bona fide owner of the suit property.

10. In conclusion, Counsel submitted that the non-joinder of the Applicant would stay or delay the execution of the Supreme Court's demolition order, thereby denying the Applicant vacant possession.

### **THE PLAINTIFF'S SUBMISSIONS**

11. The Plaintiff filed its submissions dated 13<sup>th</sup> February 2026.

12. On behalf of the Plaintiff, Counsel submitted that the Applicant has not demonstrated his interest in the suit, the role he will play in the proceeding, or the prejudice he is likely to suffer if he is not joined.

13. Counsel further submitted that the cause of action in this suit differs from the issues before the Supreme Court. It was further submitted that the Plaintiff seeks compensation for the developments made on the suit property prior to its demolition.

14. Counsel further submitted that the Defendants should be compelled to compensate him for the investment he made in the suit property, as they led him to believe they had passed good title, which would be impossible if the demolition proceeds.

15. In conclusion, Counsel urged the court to dismiss the application with costs.

### **ANALYSIS AND DETERMINATION**

16. Having considered the application, the respective affidavits, and the rival submissions, the only issue for determination is whether the Applicant has met the threshold for joinder.

17. The law governing the joinder of parties is based on Order 1 Rule 10(2) of the Civil Procedure Rules, which states 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 to enable the court to effectually and completely to adjudicate upon or settle all questions involved in the suit, be added.”***

18. **Black's Law Dictionary (8th Edition)** defines an Interested Party as:

***“a party that has a recognizable stake and therefore a standing in the matter.”***

19. In the case of **Trusted Society of Human Rights Alliance vs Mumo Matemo & 5 Others (2015) eKLR**, the Court held that:

***“An interested party is one who has a stake in the proceedings, though he or she was not party to the cause 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 interest will not be well articulated unless he or she appears in the proceedings and champions his or her cause.”***

20. In **Francis Karoki Muruatetu & Another vs. Republic & 5 Others (2010) eKLR**, the Supreme Court of Kenya outlined the key elements to consider in an application to join an Interested Party as follows:

***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 participation, 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.***

21. These are compelling decisions that establish the legal position regarding the joinder of Interested Parties.

22. In the matter at hand, the Applicant asserts that he is one of the bona fide owners of the suit property. He relied on a subsisting judgment of the Supreme Court directing the demolition of the structures erected on the suit property. Based on the foregoing, I find that the Applicant has demonstrated an identifiable stake in the proceedings. His interest is not peripheral but central to the dispute.

23. Accordingly, the application dated 29<sup>th</sup> October 2026 is allowed on the following terms:

***a) The Intended Interested Party is granted leave to file an affidavit in opposition to the Plaintiff's application dated 3<sup>rd</sup> October 2025 as per the draft annexed to the affidavit in support of the application.***

***b) Costs in the cause.***

**RULING SIGNED, DATED, AND DELIVERED VIA MICROSOFT TEAMS THIS 20<sup>TH</sup> DAY OF FEBRUARY, 2026.**

.....  
**HON. T. MURIGI**  
**JUDGE**

**IN THE PRESENCE OF:**

Mumu holding brief for Ms Ndirangu for the Intended Interested Party

Kimata for the 1<sup>st</sup> Respondent.

Court Assistant- Ahmed

ORIGINAL