



Perestroika Limited v Faraha & 3 others; Mulwa (Formally known as Rose Mwikali Wanyama) (Interested Party) (Environment and Land Case E028 of 2024) [2025] KEELC 5712 (KLR) (29 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5712 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT AND LAND CASE E028 OF 2024**

**NA MATHEKA, J
JULY 29, 2025**

BETWEEN

PERESTROIKA LIMITED PLAINTIFF

AND

ABDILLAHI ELMI RARAHA 1ST DEFENDANT

SHADRACK BARONGO 2ND DEFENDANT

STEPHEN ODONGO 3RD DEFENDANT

DIRECTOR OF SURVEY 4TH DEFENDANT

AND

ROSE MWIKALI MULWA (FORMALLY KNOWN AS ROSE MWIKALI WANYAMA) INTERESTED PARTY

RULING

1. The application is dated 24th April 2024 and is brought under Articles 40 and 159(2) of *the Constitution* of Kenya, Sections 1A, 1B and 3A of the *Civil Procedure Act* (Cap 21 Laws of Kenya) Order 1 Rule 10(2), Order 40 Rule 1, 2, 3 & 4, Order 51 Rules 1, 3 & 4 of the Civil Procedure Rules 2010 seeking the following orders;
 1. That this Honourable Court be pleased to certify the Application as urgent and be heard ex-parte in the first instance.
 2. That the Applicant be admitted as an Interested Party in this suit.
 3. That the firm of Anya Kalwa and Company Advocates be granted leave to come on record for the Interested Party herein.



4. That the Applicant/Interested Party be granted leave to file her statement of defense and counter-claim, list of documents, list of witnesses and witness statements.
5. That the costs of this Application be provided for.
2. It is based on the following grounds that at all material times, the Interested Party is the indefeasible registered proprietor of land parcel No. 12715/400, the suit land herein. That formally the Interested Party was known Rose Mwikali Wanyama which last name she acquired after her marriage to one Ephraim Chiuli Wanyama and after their said marriage she changed her name and applied for identity card she used to purchase shares and consequently register in Syokimau Farm Limited for issuance of share certificate and in registration of LR. No. 12715/400 (I.R 44341) and that after her divorce in the year 1989 she reapplied for new national identification card under Rose Mwikali Mulwa which third name is her father's name. That she is the original allottee of the suit land vide an allotment letter dated 6th August, 1981. That she was a member of Syokimau Farm Limited and a transferee thereon of the suit land. That as a member of the said farm she was issued with a share certificate number 628 for ten (10) shares on 3rd November, 1980. That the Interested Party made payments to Syokimau Farm Limited of Kshs. 1,005/= on 3rd May, 1980 for ten shares. That she made payment for survey fees on 3rd July, 1981 for Kshs. 1,500/= with respect to the suit land. That a file was opened for the suit land in the lands registry on or about 30th April, 1990 with file number 126363 but to date no title has been issued to the Interested Party herein. That it has come to her attention that there is another existing file with a purported transfer which was prepared way back on 26th May, 1994 in the name of Pinnacle Development Limited owned by one Mungai Ngaruiya. That a letter was written to the lands registry by Syokimau Farm Limited to bring to their attention the anomalies on the suit land asking the lands office to cancel the fake/false title and they issue the Interested Party with a title that is long overdue. That a search done on 20th September, 2024 indicates that one Mungai Ngaruiya transferred the suit land from Pinnacle Development Limited to Perestroika Limited on 23rd July, 2021.
3. That Interested Party has never, as the owner of the suit land transferred it to Pinnacle Development Limited as alleged. She never executed any transfer form with respect to the suit land to Pinnacle Development Limited and if there is any execution purporting to have been done by herself, the same is a forgery. That the Interested Party is a stranger to the purported transfer dated 12th May, 1994 to Pinnacle Development and the signature therein purporting to be hers is a forgery and a total fraud.
4. This court has considered the application and the submissions therein. As to whether they ought to be enjoined in the suit as a defendant or an interested party, the Court is guided by Order 1 Rule 10(2) of the Civil Procedure Rules which states;

“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”.



5. The Supreme Court decision in *Communications Commission of Kenya And 4 Others vs Royal Media Services Limited & 7 Others* Petition No. 15 OF (2014) eKLR where the Court pronounced itself on who an Interested Party is and held as follows:

“In determining whether the applicant should be admitted into these proceedings as an interested party, we are guided by this Court’s decision 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 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 or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause. Similarly in the case of *Meme v. Republic*, [2004] 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:

- (i) Joinder of a person because his presence will result in the complete settlement of all the question involved in the proceedings;
- (ii) Joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;
- (iii) Joinder to prevent a likely course of proliferated litigation.

We ask ourselves the following questions:

- a) what is the intended party’s state and relevance in the proceedings and
- b) will the intended interested party suffer any prejudice if denied joinder?”

6. It is therefore clear that the parties who should be made parties to a suit are persons who are necessary for a complete and effectual adjudication of disputes before the court. The Applicant claims that is the indefeasible proprietor of land parcel No. 12715/400 though it was not registered. That she had a change of name during her marriage and after her divorce. That she is the original allottee of the suit land vide an allotment letter dated 6th August, 1981. That she was a member of Syokimau Farm Limited and a transferee thereon of the suit land. That there has never been a transfer of the suit land from herself to Pinnacle Development Limited hence the transfer from Pinnacle Development Limited to Perestroika Limited is fake/false/unlawful/illegal and laced with fraud and does not confer a valid title to any of the aforementioned companies. That she never sold and transferred the suit land to one Abdillahi Elmi Farah as alleged. She has never entered into any agreement of sale with him. He is a stranger to the Interested Party and the purported ID No. 7800126 stated by him does not belong to her. That a letter from the Ministry of Lands indicates that there are at least three titles for IR 44341 on the same parcel No. 12715/400 two of which were established to be forgeries. I find that the Applicant has interest over the suit property and ought to be enjoined. I find that no prejudice shall be suffered by the parties herein as the addition of the Applicant as an interested party to this suit is necessary and shall enable the Court to completely and effectually determine all questions involved in the suit herein in finality.
7. The Plaintiff/Respondent opposed the application and stated that they have the indefeasible title over the suit property. That they have been paying land rent and rates. That when the land register got lost/misplaced, they made efforts to recover the same following the due process. That the Applicant has not adduced evidence to support her claim of change of name. that she has not attached crucial documents to prove her assertions as to the official change of name.



8. Be that as it may, the Applicant has made serious allegations of fraud and I find that joinder of the interested party will result in the complete settlement of all the question involved in the proceedings. I find the application for joinder dated 25th November 2024 is merited and I grant the following orders;
1. That the Applicant be enjoined as an Interested Party in this suit.
 2. That the firm of Anya Kalwa and Company Advocates be granted leave to come on record for the Interested Party herein.
 3. That the Applicant/Interested Party be granted leave to file her pleadings.
 4. That the costs of this Application be in the cause.
9. It is so ordered.

DELIVERED, DATED AND SIGNED AT MACHAKOS THIS 29TH DAY OF JULY 2025.

N.A. MATHEKA

JUDGE

