

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**COMMERCIAL AND TAX DIVISION**  
**HCCOMM NO. E096 OF 2019**

EMBAKASI RANCHING COMPANY LIMITED.....PLAINTIFF

-VERSUS-

THE REGISTRAR OF COMPANIES.....1<sup>ST</sup> DEFENDANT  
WANJIRU RICHU.....2<sup>ND</sup> DEFENDANT  
ANDREW OUKO OKUMU.....3<sup>RD</sup> DEFENDANT  
GABRIEL GITONGA.....4<sup>TH</sup> DEFENDANT  
JAMES MINGI NJOROGE.....5<sup>TH</sup> DEFENDANT  
SISTO TUTA MWAMBIA.....6<sup>TH</sup> DEFENDANT  
PENINAH NYAIREGI MWANGI.....7<sup>TH</sup> DEFENDANT  
JAMES NJEHU MBOCHI NJEHU.....8<sup>TH</sup> DEFENDANT  
DAVID MWANGI WANDERI.....9<sup>TH</sup> DEFENDANT  
PHIDELI WANGARI.....10<sup>TH</sup> DEFENDANT  
JANE NJERI MUREGI.....11<sup>TH</sup> DEFENDANT  
CHRISTOPHER ELIUD GAKURU NGIGE.....12<sup>TH</sup> DEFENDANT  
JOSEPH KINYANJUI NJENGA.....13<sup>TH</sup> DEFENDANT  
CHARLES KIHAGI THUAH.....14<sup>TH</sup> DEFENDANT  
JOSEPH JUAN KANANI.....15<sup>TH</sup> DEFENDANT

-AND-

JAMES SIMPSON SAKA.....1<sup>ST</sup> PROPOSED INTERESTED PARTY  
KASARANI ECONOMIC COMMUNITY  
BASED ORGANISATION.....2<sup>ND</sup> PROPOSED INTERESTED PARTY  
FRANCIS GIKURUMI KAMOCHÉ.....3<sup>RD</sup> PROPOSED INTERESTED PARTY  
KAMAU MUNGAI.....4<sup>TH</sup> PROPOSED INTERESTED PARTY

NJENGA KAMUMU.....5<sup>TH</sup> PROPOSED INTERESTED PARTY  
HENRY KAIRU NGANGA.....6<sup>TH</sup> PROPOSED INTERESTED PARTY  
AGNES KANYARA.....7<sup>TH</sup> PROPOSED INTERESTED PARTY  
GITAU MUNDIA.....8<sup>TH</sup> PROPOSED INTERESTED PARTY

### **RULING**

1. This Ruling is in respect to three joinder applications. The first application is the 1<sup>st</sup> proposed interested party's application dated 23<sup>rd</sup> November 2022 filed pursuant to the provisions of Sections 1, 1A, 1B, 3, 3A & 63(e) of the Civil Procedure Act and Order 1 Rule 3 & Order 50 Rule 1 of the Civil Procedure Rules, 2010. The 1<sup>st</sup> proposed interested party seeks orders that the pendency of this suit be advertised in either the Nation or the Standard Newspapers and that Mr. James Simpson Saka be joined as defendant Number 16 in this suit.
2. The application is premised on the grounds on the face of the Motion, and it is supported by an affidavit sworn on the same day by Mr. James Simpson Saka, the 1<sup>st</sup> proposed interested party herein. Mr. Saka averred that he is a Shareholder of the plaintiff company, holding a share certificate number 14267, and that the plaintiff on the other hand, is a limited liability company with over 13,500 members, most of whom reside on its expansive farm in Ruai, Nairobi, subdivided into 14-acre plots, with additional land in Machakos and Kajiado Counties. He claimed that the individuals masquerading as the plaintiff's Directors are selling company assets to non-members and managing the company without properly convened AGMs since 2019, in violation of the status quo orders.
3. Mr. Saka alleged that the plaintiff has opened parallel accounts, appointed professionals, and conducted company business without shareholder approval, thereby plundering the company's assets. He further stated that the current

purported Directors only filed this suit following their ouster by the Shareholders, seemingly to maintain control of the plaintiff company unlawfully. He alleged that the 1<sup>st</sup> proposed interested party and other Shareholders of the plaintiff company have been disenfranchised and excluded from participating in the company's affairs, suffering irreparable harm. Mr. Saka deposed that as a member of the plaintiff company, he is entitled to be joined to this suit to protect his interests.

4. The second application was filed by Kasarani Economic Community, the 2<sup>nd</sup> proposed interested party, vide a Notice of Motion dated 25<sup>th</sup> April 2025 filed pursuant to the provisions of Order 1 Rule 10(2) & Order 51 Rule 1 of the Civil Procedure Rules, 2010, and Sections 3A, 1A & 1B of the Civil Procedure Act. The applicant seeks an order to be joined to these proceedings as an interested party.
5. The application is premised on the grounds on the face of the Motion, and it is supported by an affidavit sworn on the same day by Mr. Richard Muraguri Mwangi, the Chairperson of the 2<sup>nd</sup> proposed interested party. Mr. Mwangi averred that the 2<sup>nd</sup> proposed interested party is a duly registered community-based organization comprising legitimate landowners from Embakasi Ranching Company Limited who have been adversely affected by the ongoing disputes between the parties to this suit. He deposed that the conflicts and self-serving decisions made by the parties, including individuals purporting to act as Directors in contempt of Court Orders made on 28<sup>th</sup> June 2023, have resulted in illegal transactions, double allocation of land, and unlawful interference with members' proprietary rights.
6. Mr. Mwangi stated that members of the 2<sup>nd</sup> proposed interested party, who are *bona fide* beneficiaries of the plaintiff, have been subjected to threats, extortion, and in some cases actual loss of their legally owned parcels of land

to unknown individuals. He further stated that these actions have caused widespread fear, distress, and suffering among members, including stress-related health complications. He asserted that the participation of the 2<sup>nd</sup> proposed interested party is necessary and fundamental to enable the Court to fully, effectually, and justly adjudicate all the issues in dispute.

7. The third application is the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties' Notice of Motion dated 15<sup>th</sup> September 2025, filed under the provisions of Articles 40, 48, 50(1) & 159(2) of the Constitution of Kenya, 2010, Rule 7 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, Order 51 of the Civil Procedure Rules and all other enabling provisions of the law. The 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties seek orders for leave to be joined to these proceedings as interested parties so as to participate fully in the hearing of the suit on their own behalf and on behalf of other Shareholders of Embakasi Ranching. They also pray for leave to file all necessary pleadings, affidavits, submissions, and related documents and to be served with all relevant pleadings and applications filed in Court to enable effective participation. In addition, they pray for an order directing the plaintiff and the defendants to convene an Annual General Meeting within such time as the Court may deem fit.
8. The application is premised on the grounds on the face of the Motion, and it is supported by an affidavit sworn on the same day by Mr. Francis Gikurumi Kamoche, the 3<sup>rd</sup> proposed interested party and a Shareholder of the plaintiff company. Mr. Kamoche averred that the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties are Shareholders of the plaintiff company. He further averred that the said proposed interested parties represent over two thousand Shareholders who purchased parcels of land but were not allocated the same following the commencement of the titling process in 2017. Mr. Kamoche deposed that the

Directors in the plaintiff's office have mismanaged company funds and unlawfully issued Titles to non-shareholders, actions that prompted a Shareholders' meeting held on 13<sup>th</sup> April 2019, in which new Directors were elected, although a Court Order of *status quo* issued on 31<sup>st</sup> July 2019 allowed the existing Directors to continue managing the company.

9. Mr. Kamoche contended that the current parties to this suit do not adequately represent or protect the interests of the proposed interested parties, whose rights and interests are directly affected by the affairs of the plaintiff company, and that unless joined, they risk irreparable loss of their land, which they have paid for. He maintained that the proposed interested parties have a clear legal stake in the proceedings and their interests will not be properly articulated without their participation, making their joinder necessary for the complete, just, and effective determination of the dispute herein and to prevent multiplicity of suits. He further stated that the plaintiff and the defendants have failed to convene an Annual General Meeting as required by law, to the prejudice of Shareholders, thus it is just and in the interest of good corporate governance that the Court compels the convening of such a meeting.
10. The 3<sup>rd</sup> defendant in opposition to the applications herein filed a replying affidavit sworn on 5<sup>th</sup> November 2025 by Mr. Andrew Okumu, the 3<sup>rd</sup> defendant herein. Mr. Okumu averred that the instant application is misconceived, frivolous, and an abuse of the Court process, noting that this matter is already part-heard with defence hearing dates fixed for February 2026. He contended that the applications for joinder have been brought too late, and if allowed, it would cause unnecessary delay and prejudice to parties herein who have already presented their evidence and submissions. He further averred that the dispute before the Court relates purely to internal corporate matters concerning the management and directorship of the plaintiff company,

and the proposed interested parties lack the requisite *locus standi* as they are neither Shareholders, Directors, nor officers of the plaintiff company.

11. Mr. Okumu stated that the applicants have not demonstrated any direct or legal interest in the subject matter as required under Order 1 Rule 10(2) of the Civil Procedure Rules, their interest being remote and peripheral and unlikely to assist the Court in resolving the real issues in controversy. He contended that the applications herein have been made in bad faith with the intention of delaying the proceedings, contrary to the overriding objective of expeditious and proportionate justice. He prayed for the applications to be dismissed with costs.
12. The 4<sup>th</sup> defendant in response to the instant applications filed a replying affidavit sworn on 27<sup>th</sup> October 2025 by Mr. Gabriel Gitonga, the 4<sup>th</sup> defendant herein. Mr. Gitonga averred that the issues raised in the applications herein fall outside the jurisdiction of the Commercial and Tax Division of the High Court, as the present suit is limited to matters arising from the impugned election of Directors of Embakasi Ranching Company Limited and not land disputes or internal Shareholder conflicts. He further averred that the proposed interested parties complaints relate to allocation of plots, issuance of Titles, and alleged mismanagement of land, which fall within the exclusive jurisdiction of the Environment and Land Court.
13. He asserted that the proposed interested parties have failed to provide proof of Shareholding, such as share certificates. He stated that if they are *bona fide* Shareholders, the proper course would have been to institute a derivative suit under the Companies Act, 2015, rather than seek joinder in these proceedings. Mr. Gitonga stated that this suit has been pending for over six (6) years, and that the applications herein only serve to delay its conclusion, contrary to the interests of justice and accountability. He further stated that the continued

delay in determining this suit enables misuse of company resources by certain Directors.

14. In opposition to the applications herein, the 9<sup>th</sup> defendant filed a replying affidavit sworn on 28<sup>th</sup> October 2025 by Mr. David Mwangi Wanderi, the 9<sup>th</sup> defendant herein. Mr. Wanderi averred that the applications herein are fatally defective, having been filed by an amorphous entity without *locus standi*, as they are neither Shareholders nor Directors of the plaintiff company. He stated that the subject matter of this suit concerns the management and directorship of the plaintiff company and that the proposed interested parties have demonstrated no legal interest capable of warranting joinder, other than to delay the hearing of a matter that has been pending for over six (6) years. Mr. Wanderi asserted that any grievances relating to land ownership, allocation, or Titles fall within the jurisdiction of the Environment and Land Court and not this Court. He noted that no evidence has been provided to establish that members of the 2<sup>nd</sup> proposed interested party are Shareholders of the plaintiff company or plot owners.
15. Mr. Wanderi stated that the *status quo* regarding the plaintiff company's directorship remains pursuant to existing Court Orders, and that issues of double allocation of plots have been occasioned by individuals acting in contempt of Court Orders, prompting him to caution the public through Newspaper advertisements. He averred that sufficient Court Orders already exist to protect Shareholders' interests and that these applications are a deliberate tactic to scuttle the scheduled hearing. He asserted that granting the orders being sought in the applications herein would open floodgates to similar claims. He deposed that the substantive suit will adequately address the interests of all Shareholders and plot owners and that justice will only be

served through expeditious determination of the main suit to restore proper company operations.

16. In opposition to the instant applications, the 15<sup>th</sup> defendant filed a replying affidavit sworn on 5<sup>th</sup> November 2025 by Mr. Joseph Juan Kanani, the 15<sup>th</sup> defendant herein. Mr. Kanani averred that the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties have failed to demonstrate that they were elected at the Annual General Meeting held in April 2019 or that they have any identifiable stake or relevance in this matter. He further averred that the proposed interested parties will suffer no prejudice if not joined to these proceedings since the suit has proceeded for over six (6) years without their participation.
17. He asserted that the applications herein are intended to delay the expeditious disposal of this suit and to advance a hidden agenda aimed at securing orders for convening an Annual General Meeting, thereby locking out the plaintiff and the defendants from being heard. He further stated that the proposed interested parties have not provided any documentary proof of a mandate from Shareholders, have not raised any legal challenge to the AGM of 13<sup>th</sup> April 2019, and are not seeking substantive reliefs connected to the issues before the Court. He deposed that the issue of convening an AGM is premature given that defence hearing dates have already been fixed. Mr. Kanani contended and that the proposed interested parties have failed to meet the threshold for joinder, under Order 1 Rule 10 of the Civil Procedure Rules, and that the applications herein are unmerited.
18. The three applications were was canvassed by way of written submissions. The 2<sup>nd</sup> proposed interested party's written submissions were filed on 15<sup>th</sup> December 2025 by the law firm of DC Kirui Advocates. The 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties' submissions were filed by the law firm of Muma & Kanjama Advocates on 15<sup>th</sup> December 2025, the 3<sup>rd</sup> defendant's

submissions were filed by the law firm of Macharia Gakuo & Company Advocates on 15<sup>th</sup> January 2026 and the 15<sup>th</sup> defendant's submissions were filed on 8<sup>th</sup> January 2026 by the law firm of Khaminwa and Khaminwa Advocates.

19. Mr. Kirui, learned Counsel for the 2<sup>nd</sup> proposed interested party relied on the guiding principles on joinder of interested parties as set out by the Supreme Court in the case of **Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)** [2016] KESC 12 (KLR), and submitted that the 2<sup>nd</sup> proposed interested party has satisfied the threshold to warrant being granted an order joining it to these proceedings by clearly setting out its direct and personal interest as inherent members and pioneer owners of the plaintiff company, whose rights and interests stand to be directly affected by the outcome of this suit.
20. Counsel argued that non-joinder would occasion serious prejudice to the 2<sup>nd</sup> proposed interested party's members, including double allocation of land, extortion, threats of re-allocation, loss of legally owned property, and resultant fear, suffering, and stress-related health complications. He contended that the 2<sup>nd</sup> proposed interested party's participation in this suit is necessary to assist the Court in understanding the competing factions claiming to be legitimate Directors of the plaintiff company, the resultant mismanagement, the ongoing chaos affecting land ownership and security of members. It was submitted by Mr. Kirui that as members of the plaintiff company who ultimately elect Directors, the 2<sup>nd</sup> proposed interested party's presence is critical to enable the Court to arrive at a just, lawful, and informed determination of the dispute herein.

21. Mr. Kanjama (SC), learned Counsel for the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties relied on the provisions of Order 1 Rule 10(2) of the Civil Procedure Rules, Rule 2 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (the Mutunga Rules), the Supreme Court decision in the case of **Communications Commission of Kenya & 3 others v Royal Media Services Limited & 7 others; Nature Foundation Limited (Proposed Interested Party)** [2014] KESC 52 (KLR), and submitted that the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties have made out a case to warrant being granted the orders sought herein. Mr. Kanjama (SC) also cited the Supreme Court case of **Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)** (supra), and stated that the test to be considered is whether an intended interested party has an identifiable stake or legal interest in the proceedings.
22. He argued that the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties have a clear, direct, and proximate interest as paid-up Shareholders of the plaintiff company who purchased specific parcels of land through the plaintiff company and whose proprietary and Shareholders' rights are now at risk due to contested governance and management decisions. He asserted that the dispute before the Court directly affects the ongoing allocation and titling of land, where titles are being issued to non-shareholders while genuine shareholders remain unallocated. He contended that the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties' interest is neither remote nor peripheral but immediate and legally cognizable, grounded in both the Companies Act and proprietary rights in land acquired through the Company. He contended that non-joinder will occasion serious prejudice, as the Court may make decisions affecting the said proposed

interested parties' proprietary rights without affording them a hearing, contrary to principles of fairness and substantive justice.

23. Senior Counsel argued that exclusion from these proceedings exposes the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties to irreversible loss of land already paid for, with no other party before the Court mandated to advance these Shareholder-specific concerns. He submitted that the issues raised by the proposed interested parties are distinct from those raised by existing parties, whose focus is on the legality of the AGM of 13<sup>th</sup> April 2019 and corporate control, whereas the proposed interested parties raise broader issues of Shareholder exclusion, failure to convene statutory AGMs, allocation and titling of land to non-shareholders, and the direct threat to the proprietary interests of over two thousand paid-up Shareholders. Mr. Kanjama asserted that joinder of the proposed interested parties will not duplicate arguments but will assist the Court by providing a necessary and distinct perspective, enabling a complete, just, and final determination of the dispute and preventing multiplicity of litigation.
24. Mr. Macharia, learned Counsel for the 3<sup>rd</sup> defendant relied on the Supreme Court case of **Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)** (supra), and submitted that joinder of parties is governed by Order 1 Rule 10(2) of the Civil Procedure Rules, 2010, which permits joinder only where a party's presence is necessary to enable the Court to effectually and completely adjudicate upon and settle all questions in dispute. He argued that the proposed interested parties have failed to meet this threshold, having merely alleged mismanagement of funds and land without annexing any documentary proof to support such serious allegations. He further submitted that no evidence has been provided to

demonstrate misappropriation of company funds, illegal land allocations, or any actions that would affect the determination of the issues before this Court.

25. He stated that the subject matter of this suit concerns leadership and governance of the company, which has already been settled by Court Orders, with the Directors in office lawfully mandated to manage the company as a going concern. He further stated that allegations relating to unlawful land allocation and ownership fall squarely within the exclusive jurisdiction of the Environment and Land Court under Article 162(2)(b) of the Constitution and Section 13 of the Environment and Land Court Act, and cannot be introduced indirectly through an application for joinder. Counsel argued that the proposed interested parties lack the requisite *locus standi* to seek orders compelling the convening of an Annual General Meeting, and allowing joinder on the basis of land-related claims would improperly expand the scope of the suit and introduce a new cause of action not pleaded in the main proceedings.
26. He referred to the case of **Kingori v Chege & 3 others** [2002] 2 KLR 243, and contended that the proposed interested parties are neither necessary nor proper parties, and that they have failed to demonstrate a direct and substantive legal interest recognizable by the Court. Mr. Macharia asserted that the suit has substantially progressed and the plaintiff's case has already closed, and that joinder at this late stage would occasion undue delay, require re-opening of pleadings and re-calling of witnesses, thus prejudicing the existing parties. He argued that such joinder would be contrary to the overriding objectives under Sections 1A and 1B of the Civil Procedure Act, and the constitutional principle of expeditious disposal of disputes under Article 159 of the Constitution. Counsel characterized the applications herein as a disguised attempt at forum shopping and misuse of the Court process aimed at delaying the final determination of this suit.

27. Ms Shumula, learned Counsel for the 15<sup>th</sup> defendant submitted that the applications herein are bad in law since by the time they were filed, the suit was already part-heard, with only the defence hearing scheduled for 3<sup>rd</sup> to 5<sup>th</sup> February 2026. She argued that the proposed interested parties despite claiming awareness of the Annual General Meeting held on 13<sup>th</sup> April 2019, failed to participate in it, thus they cannot be deemed primary parties to this suit. She submitted that the proposed interested parties have not met the criteria under Order 1 Rule 10(2) of the Civil Procedure Rules, 2010, to be considered necessary parties, and that a decree may be validly passed without their participation. Counsel stated that the proposed interested parties lack an identifiable stake in the proceedings, having not participated in the election that led to the ouster of the plaintiffs, thus their joinder to these proceedings would have no probative value.
28. Ms Shumula submitted that the proposed interested parties request to convene an Annual General Meeting is characterized as a hidden agenda intended to interfere with the trial and impede the defendants' right to access justice. She further submitted that the applications herein are untimely and suspicious, coming at the tail end of the proceedings, hence they have the likelihood to delay the expeditious determination of this case, contrary to the overriding objective of the Civil Procedure Act and principles of equity, specifically, that delay defeats justice.
29. Counsel relied on the case of **Murutetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae)** (supra), and asserted that personal interest or stake of a party must be clearly identifiable, proximate, and not peripheral. Further, that prejudice in the event of non-joinder must be

demonstrated and submissions must be relevant and not merely replicate arguments already before the Court.

**ANALYSIS AND DETERMINATION.**

30. I have considered the instant applications, and the affidavits filed in support thereof. I have also considered the replying affidavits by the 3<sup>rd</sup>, 4<sup>th</sup>, 9<sup>th</sup> and 15<sup>th</sup> defendants, as well as the written and oral submissions made by Counsel for the parties. The issues that arise for determination are-

- i) Whether the proposed interested parties should be joined as parties to this suit;**
- ii) Whether an order directing the plaintiff and the defendants to convene an Annual General Meeting should issue; and**
- iii) Whether the pendency of this suit ought to be advertised in the Nation or the Standard Newspapers.**

**Whether the proposed interested parties should be joined as parties to this suit.**

31. Joinder of parties is provided for under Order 1 Rule 10(2) of the Civil Procedure Rules, 2010, which states that -

*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.*

32. In **Civicon Limited v Kivuwatt Limited & 2 others** [2015] KECA 588 (KLR), the Court of Appeal in dealing with an application similar to this one, made the following observation -

*Again, the power given under the Rules is discretionary which discretion must be exercised judicially. The objective of these Rules is to bring on record all the persons who are parties to the dispute relating to the subject matter, so that the dispute may be determined in their presence at the time without any protraction, inconvenience and to avoid multiplicity of proceedings. Thus, any party reasonably affected by the pending litigation is a necessary and proper party, and should be enjoined... from the foregoing, it may be concluded that being a discretionary order, the court may allow the joinder of a party as a defendant in a suit based on the general principles set out in Order I rule 10 (2) bearing in mind the unique circumstances of each case with regard to the necessity of the party in the determination of the subject matter of the suit, any direct prejudice likely to be suffered by the party and the practicability of the execution of the order sought in the suit, in the event that the plaintiff should succeed. We may add that all that a party needs to do is to demonstrate sufficient interest in the suit; and the interest need not be the kind that must succeed at the end of the trial.*

33. In the case of **Gladys Nduku Nthuki v Letshego Kenya Limited; Mueni Charles Maingi (Intended Plaintiff)** [2022] KEHC 2227 (KLR) Odunga. J., (as he then was), in allowing an application similar to the instant one held that

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*The relevant tests for determination whether or not to join a party in proceedings were restated by Nambuye, J (as she then was) in the*

*case of Kingori vs. Chege & 3 Others [2002] 2 KLR 243 where the learned Judge stated that the guiding principles when an intending party is to be joined are as follows:*

- 1. He must be a necessary party.*
- 2. He must be a proper party.*
- 3. In the case of the defendant there must be a relief flowing from that defendant to the plaintiff.*
- 4. The ultimate order or decree cannot be enforced without his presence in the matter.*
- 5. His presence is necessary to enable the Court effectively and completely adjudicate upon and settle all questions involved in the suit.*

34. In this instance, the 1<sup>st</sup> proposed interested party averred that he is a member and Shareholder of the plaintiff company. The 2<sup>nd</sup> proposed interested party claims to represent *bona fide* members and pioneer owners of the plaintiff company, while the 3<sup>rd</sup> to 8<sup>th</sup> proposed interested parties claim to represent over two thousand shareholders who purchased land through the plaintiff company, but have not been allocated land.

35. Upon perusal of the pleadings filed by the proposed interested parties, it is evident that their claims focus on alleged mismanagement of funds, double allocation of land, and failure to convene statutory Annual General Meetings.

36. The defendants on the other hand contended that the proposed interested parties lack a direct or legal interest in the subject matter, having failed to provide proof of Shareholding. They further averred that this suit is already part-heard with the main issues concerning the legality of the April 2019 AGM and corporate control, which are matters fully within the Court's purview and can be adjudicated without the joinder of the proposed interested

parties. The defendants maintained that any allegations relating to land allocation fall within the exclusive jurisdiction of the Environment and Land Court pursuant to the provisions of Article 162(2)(b) of the Constitution and Section 13 of the Environment and Land Court Act, thus they cannot be introduced through joinder.

37. From the foregoing, this Court notes that the proposed interested parties have not provided sufficient evidence to demonstrate that their legal interests are directly affected by the reliefs sought in the main suit. It is not in contest that the said proposed interested parties did not participate in the plaintiff's April 2019 AGM, and they have also not demonstrated how their absence from the AGM translates into a direct legal stake in the specific issues framed in this suit. This Court further notes that the proposed interested parties have not adduced evidence demonstrating that they have been formally mandated by the plaintiff's Shareholders who they purport to be acting on behalf, and it is apparent that their claims largely relate to land allocation, which is outside the jurisdiction of this Court.
38. In light of the above, and noting that the plaintiff has already closed its case and the matter is scheduled for defence hearing in February 2026, this Court finds that allowing the applications herein would require to re-opening of pleadings and re-calling of witnesses, which would likely result in undue delay in finalizing this dispute that has been in Court since 2019, thereby occasioning prejudice to the existing parties to this suit. It is further trite that joinder cannot be used to introduce fresh issues or seek substantive relief unrelated to the main dispute.
39. The proposed interested parties claim that their *locus standi* to be joined to these proceedings stems from the fact that they are Shareholders of the plaintiff company. For this reason this Court finds that their grievances ought

to have been brought in the name of the plaintiff, a limited liability company capable of suing and being sued in its own name. This Court therefore agrees with the defendants that if at all the proposed interested parties grievances, which include mismanagement of company affairs or shareholder grievances, cannot be brought in the name of the plaintiff company, they ought to be brought by way of derivative suits under the Companies Act or before the appropriate forum, such as the Environment and Land Court, where applicable.

40. This Court finds that the proposed interested parties have failed to meet the threshold for joinder of persons under Order 1 Rule 10(2) of the Civil Procedure Rules, 2010, and the authorities I have cited in this Ruling. Further, upon considering their claim alongside the orders being sought by the parties who are already before this Court, I am not persuaded that the presence of the proposed interested parties is necessary for the Court to effectively and completely adjudicate the questions in dispute.
41. It is therefore my finding that the proposed interested parties have not made out a case to warrant being granted an order joining them to this suit.

**Whether an order directing the plaintiff and the defendants to convene an Annual General Meeting should issue and whether the pendency of this suit ought to be advertised in the Nation or the Standard Newspapers.**

42. Having found that the proposed interested parties have not established any legal right to warrant issuance of an order joining them to these proceedings, there is no basis for this Court to grant an order directing the plaintiff and the defendants to convene an Annual General Meeting, or for the pendency of this suit to be advertised in the Nation or the Standard Newspapers.

43. In the circumstances, this Court finds that the applications herein are not merited. They are hereby dismissed with costs to the 3<sup>rd</sup>, 4<sup>th</sup>, 9<sup>th</sup> and 15<sup>th</sup> defendants.

It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI on this 20<sup>th</sup> day of February 2026. Ruling delivered through Microsoft Teams Online Platform.**

**NJOKI MWANGI**

**JUDGE**

**In the presence of:-**

Ms Irungu h/b for Mr. Ngata Kamau for the plaintiff

Ms Njeri h/b for Mr. Macharia for the 2<sup>nd</sup> & 3<sup>rd</sup> defendants

Mr. Mussa for the 4<sup>th</sup> defendant

Mr. Mirie for the 6<sup>th</sup> & 9<sup>th</sup> defendants

Mr. Moronga Makau for the 8<sup>th</sup> defendant

Mr. Isaac Aloo for interested party

Ms B. Wokabi - Court Assistant.