



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
COMMERCIAL AND TAX DIVISION
CORAM: F. MUGAMBI, J
CIVIL CASE NO. E115 OF 2024

BETWEEN

MANCHESTER OUTFITTERS LIMITED
PLAINTIFF

VERSUS

NAIROBI CITY COUNTY
DEFENDANT

NARENDRA GALOT **PROPOSED INTERESTED**
PARTY

RULING

Background and introduction

1. This Ruling determines the Application dated 14th November 2025, wherein the Proposed Interested Party seeks leave to be enjoined in these proceedings. The Applicant further prays that the Court do issue directions to safeguard the sums recoverable herein, so as to ensure that such

monies are applied exclusively for the benefit of the Plaintiff.

- 2.** The Applicant anchors his claim upon the decision of the three-judge bench in **HCCC No. 55 of 2012**, which was delivered on 11th April 2024, wherein the Court determined the shareholding structure of the Plaintiff. In that ruling, it was held that Lalchand Pusharam Galot (deceased) was the holder of one (1) management share and three hundred and forty-nine (349) ordinary shares, while Mohan Galot (deceased) held the remaining one (1) management share. Following the completion of succession in respect of the Estate of Lalchand Pusharam Galot, the Applicant, Narendra Galot, avers that he lawfully became the holder by transmission of the said management and ordinary shares.
- 3.** He further contends that succession in respect of the Estate of Mohan Galot was incomplete, and consequently, no transmissible or exercisable rights presently attach to its management share. The Applicant asserts that under **Article 5(ii)** of the Memorandum and Articles of Association of the

Company, the management and control of the company are vested exclusively in the holder of the management share, which position he now lawfully holds.

4. The Applicant alleges that the Plaintiff, acting through persons purporting to be directors without lawful authority, are in the process of negotiating and finalizing a consent with the Defendant to compromise this suit and receive the decretal sum. He maintains that such negotiations are being conducted without his knowledge, involvement, or approval as the legitimate management shareholder. According to him, the said individuals, who hold no shares in the Plaintiff, intend to deposit the decretal sum into a Prime Bank account under their sole control, thereby exposing the Company to grave risk of misappropriation and financial prejudice.
5. On these premises, the Applicant urges that his joinder is necessary to ensure that any sums recovered are paid into the company's DTB account, which has been in continuous operation for over two decades, for the proper settlement of

loans and the continued lawful operations of the company. He asserts that as the holder of the management share, he possesses a direct, identifiable, and legally protectable interest in the subject matter of the suit, vested with both authority and responsibility over the affairs and assets of the company.

- 6.** The Applicant concludes that his joinder will not occasion prejudice to the existing parties but will instead serve the ends of justice, safeguard the company's assets, and uphold the integrity of its lawful governance structure.
- 7.** The application is opposed by the Replying Affidavit of Avin Galot sworn on 20th November 2025, in which he states that he is a director of the Plaintiff company. The deponent contends that the Applicant has advanced no lawful basis for his joinder into these proceedings. It is asserted that his participation would not aid the Court in arriving at a fair and informed determination, but rather serves the collateral purpose of shielding other parties from their financial obligations.

8. The Respondent refers to **Misc. Application No. 1031 of 2024**, wherein a similar claim was advanced by the Applicant and determined by this Court on 13th November 2025. In that ruling, the Court held that only shareholders or directors of a company may invoke jurisdiction under the Companies Act. Unless and until shares are lawfully transmitted and duly registered, an applicant lacks *locus standi*.
9. This position was fortified by Angote J in **ELC No. 358 of 2012**, and further affirmed by the Court of Appeal in **Clement Muturi Kigano V Kibera Development Company Limited, [2019] KECA 183 (KLR)**, which held that registration confers title and without it, one cannot be deemed a shareholder.
10. The affidavit further emphasizes that the Applicant is not a registered shareholder of the Plaintiff. Moreover, it is contended that even if he were a shareholder, the Company remains a distinct legal entity separate from its members. Any debt owed to it is the Company's debt, not that of an individual shareholder. Consequently, the Applicant

has no cognizable interest in this suit, rendering his application an abuse of process.

- 11.** The deponent further invokes **Order 1 Rule 10(2) of the Civil Procedure Rules**, which permits joinder only where a party is necessary for the complete adjudication of issues. He argues that the Applicant has never been employed by the Plaintiff, nor has he served as a director or shareholder. He therefore possesses no knowledge or information capable of assisting the Court. Even if he was permitted to participate in the Company's management, it is argued that such involvement would not substitute the statutory functions of directors.
- 12.** The Respondent argues that the suit arises from a contract for the sale of goods. The Applicant is neither a contracting party nor a creditor, and thus lacks privity of contract. His purported shareholder interests could only be pursued through a derivative action, which the instant suit is not. Accordingly, his application is incompetent. Finally, the affidavit avers that the Applicant's schemes are calculated to frustrate the expeditious

resolution of the matter and to obstruct payment of sums lawfully owed to the Plaintiff. For these reasons, the application is said to be frivolous, vexatious, and an abuse of the Court process, warranting dismissal with costs.

Analysis and Determination

13. Upon considering the application, the response thereto, and the written submissions of the parties, I find that only one cardinal issue arises for determination and that is whether the Applicant satisfies the requirements to be referred to as an interested party and whether he has met the threshold for joinder as such under ***Order 1 Rule 10(2) of the Civil Procedure Rules***.

14. The Supreme Court has already provided authoritative guidance on this questions. In ***Trusted Society of Human Rights Alliance V Mumo Matemu & 5 Others, [2014] eKLR*** the Court defined an interested party as:

“one who has a stake in the proceedings, though he or she was not a party to the cause ab initio. Such a person feels that

his or her interest will not be well articulated unless he or she appears in the proceedings, and participates in the process.”

15. Further, in **Francis Karioki Muruatetu & Another V Republic & 5 Others, [2016] eKLR** the Court set out the threshold for joinder of an interested party as follows:

“(i) 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.

(ii) The prejudice to be suffered by the intended interested party in case of nonjoinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly

outlined and not something remote.

(iii) 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. Applying these principles to the present matter, the Applicant's principal ground for seeking joinder is his alleged status as a shareholder in the Plaintiff company. This issue is at the very least res judicata. In a Ruling dated 18th November 2026 in **HCCOMMMISC/E1031/2024**, this Court held as follows:

“In the case of a deceased's estate, the position is as was held in Mbogo & Another V

Registrar of Companies; Roberty Njoka Muthara (Interested Party), [2021] KEHC 51 (KLR), Majanja J pronounced himself as follows:
"The 1st Applicant and the persons, she purports to represent are not members of the company. They admit that the deceased shareholders' shares have not been transmitted to them. They therefore do not have any right to be members of the Company or exercise the rights of members which include the right to elect directors in accordance with the Articles of Association. The appointment of directors is a preserve of the shareholders and since the Applicants and the persons they represent are not shareholders they cannot purport to appoint directors."

I fully align with this reasoning. Until and unless the applicant demonstrates that the shares have been lawfully transmitted to him, he lacks locus standi to bring the application.”

17. The Respondent has also drawn the Court’s attention to **ELC 358 OF 2012** in which the Environment and Land Court, Angote J held as follows:

“Section 92(3) of the Companies Act, 2015, is explicit that a person becomes a member of a company only upon entry of his or her name in the register of members. The Court of Appeal in Clement Muturi Kigano vs Kibera Development Company Limited [2019] KECA 183 (KLR) affirmed this position when it held that:

Registration confers title. Without registration, an applicant is not the holder of a share or a member of the

company: the share has not been issued to him. No person can be a shareholder until he is registered." That being the case, Mr. Narendra remains unregistered as a shareholder of the 1 Plaintiff, and has asked the High Court to issue a directive for his registration as a shareholder. It is not for this court to make that determination. That is the exclusive preserve of the High Court."

- 18.** It is indeed regrettable that a litigant, duly represented by Counsel, should persist in re-litigating a singular issue that has already been conclusively addressed by this Court. For the umpteenth time, the Applicant has placed before the Court a Certificate of Confirmation of Grant dated 21st June 2023. That document, standing alone, does not amount to an automatic transmission of shares.

- 19.** The law is clear. The transmission of shares upon the death of a shareholder in a private company, such as the Plaintiff herein, is governed by its Memorandum and Articles of Association or by default, **Clause 67** of the Model Articles for Private Companies Limited by Shares. Those Articles stipulate that a person entitled to shares by virtue of succession (a “transmitee”) must elect either to have the shares transferred into his own name or into the name of another person. The mere existence of a grant of representation does not therefore without more, effectuate transmission.
- 20.** It is for this reason that the process of transmission must culminate in the entry of the beneficiary’s name into the company’s register of members, as expressly contemplated under **Section 92 of the Companies Act**. That, however, is not the case in the present circumstances. The Applicant has not demonstrated compliance with the statutory procedure, nor has he explained why, despite the lapse of nearly three years since the issuance of the Certificate of Confirmation of Grant, he has failed to pursue the requisite transmission process.

21. What is clear is that without such lawful transmission and registration, the Applicant remains a stranger to the company's membership. He therefore lacks a sufficient stake or legally recognizable interest to warrant joinder under ***Order 1 Rule 10(2)***.

22. Even if I were to assume, arguendo, that my earlier reasoning was in error, the position in law remains that upon registration, a company acquires recognition as a distinct legal entity, separate and apart from its members. One of the cardinal incidents of incorporation is that the company is vested with capacity to sue and be sued in its own name, and to enter into contracts in its own right.

23. I have carefully examined the Complaint dated 8th March 2024. It is evident that the cause of action arises from a contract entered into by the Plaintiff, in its corporate capacity, with the Defendant. The Plaintiff has therefore properly invoked the jurisdiction of this Court in its own name, acting through its directors, who in law constitute the mind, will, and management of the company. In

these circumstances, the joinder of the Applicant is neither necessary nor justified.

- 24.** The Applicant has not demonstrated that he is a director of the Plaintiff company. Even if he were, that fact alone would not entitle him to be enjoined in proceedings already instituted by the company itself, absent any sufficient or compelling reason. The law is clear that directors act on behalf of the company, and the company litigates in its own name.
- 25.** The Applicant's contention that his joinder is necessary to safeguard the decretal sums by directing them into the company's DTB account cannot also withstand scrutiny. It is the company itself, acting through its duly appointed directors, that bears responsibility for the management of its accounts, the settlement of its debts, and the conduct of its lawful operations. Even if he were a shareholder, his personal interest would remain distinct from the company's corporate interest, and the law does not permit shareholders to intervene directly in suits filed by or against the company

except through derivative proceedings, which this is not.

- 26.** In any case, the apprehension expressed by the Applicant regarding possible misappropriation of funds is also speculative and has not been substantiated. That too does not confer a right to be enjoined. The statutory framework already provides mechanisms for accountability of directors to shareholders. It is not the function of joinder under **Order 1 Rule 10(2)** to substitute those statutory safeguards.
- 27.** The Court finds that the Applicant has failed to establish any legal or factual basis for his joinder, and his application must fail. Finally, I do agree with the Respondents that the Applicant has exhibited a total disregard for the previous pronouncements of this Court and other Courts on the same issue. The Applicant has persisted in re-litigating matters that have already been conclusively determined, thereby occasioning unnecessary delay and burdening the judicial process. It is therefore only befitting that he should

bear the consequences of his actions through an award of costs.

Disposition

28. Accordingly, the application dated 14th November 2025 is dismissed with costs to the Respondents.

**DATED, SIGNED AND DELIVERED IN NAIROBI
THIS 23RD DAY OF MARCH 2026.**

**F. MUGAMBI
JUDGE**

Delivered in presence of:

Mr Ongwen for the PPIP
Ms Awiti for the plaintiff
Mr Mukonyi for the defendants
Court Assistant: Lillian