



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 389 OF 2017

SARUNI MATU.....1ST PLAINTIFF

JOSEPH NYOKUNI KENGA.....2ND PLAINTIFF

SEURI OLE SANKOK.....3RD PLAINTIFF

OLE KENYA GROUP RANCH.....4TH PLAINTIFF

-VERSUS-

STANLEY TINANA KOONYO.....1ST DEFENDANT

SIMINTEY OLE KOONYO.....2ND DEFENDANT

KAMAAMIA OLE MASIAR.....3RD DEFENDANT

MAISON OLE MASIAR.....4TH DEFENDANT

LEISA OLE KISHAMBILI.....5TH DEFENDANT

KANTAI OLE MASIAR.....6TH DEFENDANT

MORIPET OLE MASIAR.....7TH DEFENDANT

SOLEON OLE KOONYO.....8TH DEFENDANT

DAVID OLE NTAIYA.....9TH DEFENDANT

JOSEPH OLE MASIAR.....10TH DEFENDANT

NKIRRIMPA OLE MASIAR.....11TH DEFENDANT

NTARUNKEY OLE MASIAR.....12TH DEFENDANT

PARISNANTE OLE MASIAR.....13TH DEFENDANT

PHILIP NKIRRIMPA MASIAR.....16TH DEFENDANT

JASAN KOONYO.....17TH DEFENDANT

AND

STANLEY LESIAMON OLE KOONYO

(for and on his own behalf and on

*behalf of 104 others).....***APPLICANTS (PROPOSED INTERESTED PARTIES)**

RULING

By an Application dated 28th November, 2018 and brought under Section 1A,1B,3 and Order 5 Rule 1 the applicants sought that they be enjoined in the suit herein as interested parties. The Application was based on the grounds that the Applicants are the registered owners of various parcels of land that were formally part of LAND PARCEL NAROK/OLCHORO/20 and that the determination of the suit herein without their participation will be prejudicial to them and their inclusion will help the court to determine the issues between the parties. The Application was supported by the Affidavit of one Stanley Lesiamon Ole Koonyo who stated that he filed the Application with the authority of all the Applicants. He averred the suit land relates to LAND PARCEL NAROK/OLCHORO/46 which was formally NAROK/OLCHORO/20 which was registered in the names of Koonyo Group Ranch and since the suit is challenging the defendants title then they risk to have their own titles questioned and that the decision of the court will have far reaching ramifications on them.

The Applicant further averred that their admission into the case as a party will enable the court to adjudicate on the issues before it.

The Application was opposed by the Plaintiff/Respondents who contend that their claim against the Defendant is for challenging the legitimacy of land title NAROK/OLCHORO/20 and sub-divisions and that they have absolutely no interest in land parcel NAROK/OLCHORO/46.

The Respondents further contend that the Defendants are forcefully occupying land parcel NAROK/OLCHORO/46 and further that the applicants have not annexed any title to the application to prove their interest thereon and hence no proof that their land actually exists.

The Respondent further contend that 2nd, 3rd, 4th, 5th, 10th, 11th and 13th Applicants are parties to the suit herein.

In their submissions the Applicants submitted that they ought to be joined in the suit as their participation will be necessary so that the court can effectually determine and adjudicate on the issues before it. They further submit that their exclusion will be unjust and against the rules of natural justice.

The Plaintiffs/Respondents in their submissions contend that the Applicants have not shown evidence to prove that they own and occupy sub-divisions of LR NAROK/OLCHORO/20 and that they have not annexed titles or certificate of official search to prove their claim.

I have considered the Application before me and the issues for determination is whether the applicants have demonstrated that they have a stake in the dispute before the court. It is the Applicants contention that they occupy and own various parcels of land which were sub divisions of land reference no. NAROK/OLCHORO/20 and that in the event the suit is heard in their absence they will suffer prejudice, loss and damage.

In the amended plaint that was filed in court the suit herein relates to land parcel NAROK/OLCHORO/46 in which the Plaintiff seeks for orders of injunction and eviction order in respect of the aforesaid parcels. From the entire pleadings I find no claim by the Plaintiff in respect of Land Parcel NAROK/OLCHORO/20 or the resultant titles after its sub-division and furthermore over 104 Applicants none has annexed a certificate of title or a certificate of search in respect of any parcel of land which shall be effected by the instant case. For one to be enjoined as an interested party one must demonstrate to the court with some decree what are his interests and how any orders issued will affect him.

From the above I find that the Notice of Motion dated 28th November, 2018 is not merited and I thus dismiss the same with costs.

DATED, SIGNED and DELIVERED in open court at NAROK on this 18th day of July, 2019.

Mohammed Noor Kullow

Judge

18/7/19

In the presence of: -

CA:Chuma

Mr Langat holding brief for Kaberia for the plaintiff

Mr Mutai holding brief for Andama for the defendants

Karanja for the applicant

Mohammed Noor Kullow

Judge

18/7/19