

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC NO.335 OF 2017

HARJI GOVIND RUDA.....PLAINTIFF/RESPONDENT

-VS-

NATIONAL LAND COMMISSION & 3 OTHERS.....DEFENDANT/RESPONDENTS

NAZIR AHMED KASSAM SULEIMAN.....INTERESTED PARTY/APPLICANT

RULING

1. The Application for consideration is the Notice of Motion dated 1st December 2017 in which the Applicant, Nasir Ahmed Kassam Suleiman seeks to be enjoined in the suit. The Application is brought under Sections 1A, 1B, 3A and 63(e) of the Civil Procedure Act and Order 1 Rule 3 and 10 (2) and Order 51 Rule 1 of the Civil Procedure Rules.

2. The Application is supported by the Affidavit of Nazir Ahmed Kassam Suleiman sworn on 1st December 2017 and a Further Affidavit sworn on 30th April 2018. The Applicant states that he is the Executor of the Estate of Cassam Suleiman Sumar and also the registered and/or beneficial owner of the property known as **LR NO.387/V/MN**, part of which was acquired compulsory by the Government for the construction of the Dongo Kundu by pass in Mombasa. That the Plaintiff holds illegal title deeds on the ground and therefore is not entitled to compensation. He would therefore like to be enjoined as a party to the suit to protect his interests.

3. The Plaintiff has filed Grounds of Opposition and Notice of Preliminary Objection claiming that the Applicant has no *locus standi* and has no consent or authority from other administrators to swear on their behalf, and that the Application is scandalous, frivolous, vexatious and an abuse of the court process.

4. This being a land matter and the applicant having claimed that he has an interest in the suit property, I feel his claim for whatever it is worth ought to be heard on merits. Accordingly, I allow the Applicant's Application for him to be joined in the suit as a necessary or interested party. The Applicant will, in accordance with Order 7 of the Civil Procedure Rules, file his defence and counter-claim if any, within fourteen (14) days from the date of this ruling, and the Plaintiff may file a reply to the defence and counter-claim, if any, within fourteen (14) days of service of the defence and counter-claim, after which the matter will proceed for pre-trial directions.

The costs of the Application will be in the cause.

Delivered, signed and dated at Mombasa this 18th September, 2018.

C. YANO

JUDGE