



**IN THE REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAIROBI**

**ELC NO. 1264 OF 2015**

**KUL WANT SINGH CHADHA.....PLAINTIFF/APPLICANT**

**VERSUS**

**KENYA AIRPORTS AUTHORITY & 2 OTHERS.....DEFENDANTS**

**AND**

**THE NATIONAL LAND COMMISSIONS.....INTENDED 4<sup>TH</sup> DEFENDANT**

**RULING**

1. The Plaintiff/applicant filed Notice of Motion dated 14<sup>th</sup> December 2017 in which he seeks joinder of the National Land Commission (NLC) as the 4<sup>th</sup> defendant in this suit. The applicant contends that the intended 4<sup>th</sup> defendant holds crucial records in respect of the suit property which information is critical in the effectual and complete adjudication of the suit herein. The applicant therefore contends that the joinder of NLC as a 4<sup>th</sup> defendant is necessary.

2. The first defendant has opposed the applicant's application based on grounds filed in court on 27<sup>th</sup> April 2018. The first defendant contends that the intended 4<sup>th</sup> defendant is not a necessary party in the suit as the issues in this case can effectively adjudicated upon and settled without joinder of the proposed 4<sup>th</sup> defendant. The first defendant also contends that a look at the proposed amendment once the proposed 4<sup>th</sup> defendant is brought on board will unnecessarily bring in new issues which can await the outcome of the suit.

3. I have considered the application by the applicant as well as the opposition to the same by the first defendant. The court had directed parties to file written submissions. As at the time of writing this ruling, it is only the first defendant's submissions which were on record. There are two tests for determining the question of who is a necessary party in a suit. Firstly, there must be a right to some relief against such a party in respect of the matter involved in the proceedings in question. Secondly, it should not be possible to pass an effective decree in the absence of such a party.

4. In the instant case, the issue in contention is the legality of a title which the applicant claims it has. The first defendant on the other hand contends that the title held by the applicant is invalid as the same was created from land belonging to it. The Chief Land Registrar has been sued as a defendant. Also sued as a defendant is the Attorney General. With the presence of the Chief Land Registrar and the Attorney General, the court can pass an effective remedy. There is therefore no need to enjoin the National Land Commission. The Chief land Registrar can implement any orders which will be issued by the court without necessarily bringing on board the NLC. I therefore find no merit in the applicant's application which is hereby dismissed with costs to the first defendant.

It is so ordered.

**Dated, Signed and delivered at Nairobi on this 11<sup>th</sup> day of October, 2018**

**E.O. OBAGA**

**JUDGE**

In the absence of parties who were aware of date and time of delivery of Ruling

Court Assistant : Hilda

**E.O. OBAGA**

**JUDGE**