



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**JUDICIAL REVIEW NO. 21 OF 2016**

**MAJIMOTO GROUP RANCH .....EX-PARTE/APPLICANT**

**VERSUS**

**THE DISTRICT LAND ADJUDICATION AND**

**SETTLEMENT OFFICE NAROK SOUTH DISTRICT**

**HON. ATTORNEY GENERAL .....RESPONDENT**

**TWALA STEPHEN LEMERIS .....1<sup>ST</sup> PROPOSED**

**INTERESTED PARTY /APPLICANT**

**STANLEY KIMAREN RIAMIT.....2<sup>ND</sup> PROPOSED**

**INTERESTED PARTY /APPLICANT**

**RULING**

***(Application by persons to be enjoined as interested parties to proceedings; principles to be applied in an application for joinder; matter at hand being a judicial review motion to quash a letter written by a Land Adjudication Officer calling for a meeting of a Group Ranch; argument in the suit that the officer had no jurisdiction to call such meeting; applicants seeking to be enjoined stating that they are members of the Group Ranch and that they have their grievances to ventilate; mere membership of the Group Ranch does not make one a necessary party to the determination of the question whether the officer acted ultra vires; other grievances not disclosed and not shown to be fit to be determined in this suit; other argument that the Chairman of the Group Ranch is suspended not enough to allow for joinder as new officials can address the matter; application dismissed)***

1. The main action in this suit is one for judicial review for orders of certiorari to quash a letter dated 16 August 2016 written by the respondent. The gist of that letter was to call for what was described as a Special General Meeting of Maji Moto Group Ranch, scheduled for 9 September 2016, whose agenda inter alia was to present an investigation report and hold elections. It is the view of the Maji Moto Group Ranch, the ex-parte applicant in this action, that the letter is ultra vires since the respondent had no jurisdiction under the Land (Group Representatives) Act, Chapter 287, Laws of Kenya to call such a

meeting. Leave to commence the action was granted on 5 September 2016 and an order granting a stay of implementation of the contents of the letter issued on 6 September 2016. The main motion is yet to be heard.

2. Through an application filed on 14 September 2016, which is the subject of this ruling, two persons namely Twala Stephen Lemeris and Stanley Kimaren Riamit, have applied to be enjoined to these proceedings as interested parties. The application is based on the following grounds :-

*(i) The applicant obtained orders dated 6th September 2016 staying the implementation of the letter of 16th August 2016 and stopping a meeting scheduled for 9th September 2016 by the respondent.*

*(ii) The order of 6th September 2016 was obtained through material non-disclosure and misrepresentation by the alleged Chairman of the Applicant.*

*(iii) The effect of the said order occasioned a continuum perpetuation of a vacuum in the management and administration of the Group Ranches (sic).*

*(iv) The operations of the Applicant have been grinded to a halt which conversely affects the rights of the members of the applicant including the proposed interested party's right to property under Article 40 of the Constitution.*

*(v) The applicant (sic) is directly affected by the subject matter in this suit and their presence is necessary in order for this court to effectively adjudicate and settle all questions involved in the suit.*

*(vi) An application for a party to be made to be enjoined in a suit can be made at any stage of the proceedings.*

*(vii) No prejudiced (sic) will be suffered by the parties should the applicant be enjoined in the suit.*

*(viii) That the applicant (sic) will be highly prejudiced should he not be given the opportunity to ventilate his grievances.*

*(ix) It will prevent the multiplicity of suits if the applicant (sic) are enjoined to this matter rather than instituting a fresh suit.*

3. The supporting affidavit to the motion is sworn by Twala Stephen Lemeris. He has deposed that he is a member of the Maji Moto Group Ranch and has displayed what he has called an area list. He has pointed to the fact that the suit herein was filed on 5 September 2016 and stay orders issued on 6 September 2016. It is his view that the stay occasioned a vacuum in the management and administration of the Group Ranch as the former Group Representatives, including the Chairman, were suspended pursuant to a letter dated 2 June 2016 by the Registrar of Group Ranches. A copy of the said letter is attached. It is averred that the affairs of the Group Ranch have been grinded to a halt. He has stated that he is directly affected by the subject matter of this suit and his presence is necessary in order for this court to effectively adjudicate and settle all questions involved in the suit. It is his position that he will be highly prejudiced if he is not given an opportunity to ventilate his grievances and that his joinder will prevent a multiplicity of suits.

4. Ms. Amina Hashi for the intended interested parties did point out that the application is not opposed. She stated that the application is made owing to the suspension of the Chairman who commenced this suit on behalf of the Group Ranch. Mr. Karanja Mbugua for the ex-parte applicant left the matter to court.

5. I have considered the application and I am afraid that I have to decline it.

6. It has been stated that the presence of the applicants is necessary in order to adjudicate on the matter

herein and that the applicants intend to ventilate their grievances. I do not see how it can be said that it is necessary for the applicants to be enjoined to this suit so as to determine the subject matter of this suit, which is whether or not the letter of 16 August 2016, written by the District Land Adjudication and Settlement Office- Narok South District, was written without any lawful authority to do so. That to me is an issue that is meant to be squarely responded to by the respondent in the main motion.

7. It has further been mentioned that the intended interested parties wish to "ventilate their grievances" hence this application and that if the application will be permitted, this will prevent a multiplicity of suits. I have not been told what these "grievances" are. The intended interested parties have not tabled them for me to assess whether they are "grievances" that are fit to be determined in this case. Be as it may, I have already explained that this suit does not have any additional issue, save for the question whether the respondent acted ultra vires in issuing the letter of 16 August 2016. If at all there are other grievances that the intended interested parties have, then I do not see the place of such, in proceedings such as these. The intended interested parties can seek counsel and assess the best way of presenting such grievances for ventilation but I do not see how I can determine more than the single issue presented by the ex-parte applicant within the confines of this suit.

8. I seek to be pardoned for quoting one of my own decisions on the subject matter of joinder as interested party, but I lack the words of expressing the point better than I did in the case of **Skov Estate Limited & 5 Others vs Agriculture Development Corporation & Another, Nakuru ELC, Case No. 251 of 2012 (2015) eKLR**, where I stated as follows at paragraph 18 of the decision :-

*"In my view, for one to convince the court that he/she needs to be enjoined to the suit as interested party, such person must demonstrate that it is necessary that he/she be enjoined in the suit, so that the court may settle all questions involved in the matter. It is not enough for one to merely show that he/she has a cursory interest in the subject matter of litigation. Litigation invariably affects many people. A judgment or order in most cases does not only affect the litigants in the matter. It does have ramifications for others as well and one may very well argue that these others have an interest in the litigation. That is a fair argument, but a mere interest, without a demonstration that the presence of such party will assist in the settlement of the questions involved in the suit, is not enough to entitle one be enjoined in a suit as interested party. In other words, there needs to be a demonstration that the interest of the person goes further than "merely being affected" by the judgment or order. It must be shown that the presence of that person is necessary, so that the issues in the suit may be settled, and that if the person is not enjoined, the court may not be fully equipped to settle the questions in the suit or may be handicapped in one way or another. A joinder may also be allowed if the intended interested party has a claim of his own, which in the circumstances of the matter, needs to be tried, or is convenient to be tried alongside the claims of the incumbent plaintiff and defendant. The threshold for joinder of an interested party should not be too low, or else, this is prone to open doors for busybodies to be joined to proceedings, merely to spectate or confuse the issues in the matter. Apart from the above, whether or not to enjoin a person as an interested party, must be looked at within the context and surrounding circumstances of each particular case."*

9. I need only emphasise that there is really no purpose in enjoining people as interested parties if they are not going to be of any assistance in the determination of the matter before court. This is only going to place a burden on the proceedings and prejudice the speedy conclusion of the matter. That is exactly my view on the application before me. There is no need of burdening these proceedings with parties who will not assist the court in determining the issue at hand and whose grievances, if any, cannot be determined within this case.

10. It was pointed out to me that the Chairman, who presented this case on behalf of the ex-parte applicant was suspended in a letter dated 2 June 2016. If indeed this letter is true, and if the intention is to demonstrate that the person who presented this suit had no capacity to do so, then it is my view that the proper person to make an application is the current Chairman of the Maji Moto Group Ranch or the current Group Representatives of the said Group Ranch, who indeed have the option of whether or not to pursue these proceedings as they are the managers of the Group Ranch. I do not see how that can be

addressed by the applicants coming into these proceedings as interested parties.

11. For the above reasons, I find no merit in this application. It is hereby dismissed. I however make no orders as to costs as there was no formal objection raised by the ex-parte applicant to the motion.

12. It is so ordered.

**Dated, signed and delivered in open court at Nakuru this 16th day of February 2017.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**

**In presence of :**

Ms. Amina Hashi for the intended interested parties.

Mr Karanja Mbugua for the ex-parte applicant.

Court Assistant: Nelima

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**AT NAKURU**