



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**  
**MILIMANI LAW COURTS**  
**ELC. CASE NO. 409 OF 2010**

**JOSEPH KARANJA.....PLAINTIFF**

**VERSUS**

**KIGUTHA DEVELOPMENT LIMITED..... DEFENDANT**

**RULING**

Coming up before me for determination is the Chamber Summons dated 3<sup>rd</sup> June 2013 in which the Proposed Interested Parties/Applicants namely Mugumoini Southland Kijiji Self Help Group members seek for an order enjoining them as interested parties in this suit.

The Application is premised on the grounds appearing on its face together with the Supporting Affidavit of one of its members, Geoffrey Mbugua Kariuki, sworn on 3<sup>rd</sup> June 2013 in which he averred that the Applicants have been in uninterrupted occupation of the suit property since the 1960s with some of them having been born and bred there. He stated that the Applicants claim ownership over the suit property by the doctrine of adverse possession. He added that they were not informed or notified of this suit yet any adverse orders issued by this court without their involvement will affect them directly. He added that it is only fair and just that they be enjoined in this suit as interested parties to enable them to explain their position on the ownership of the suit property and to ensure that their interests are safeguarded.

The Applicants filed a Further Affidavit sworn by Geoffrey Mbugua Kariuki on 20<sup>th</sup> May 2015 in which he annexed the Certificate of Registration of Mugumoini Southland Kijiji Self Help Group along with a newspaper advertisement carried in the Daily Nation newspaper notifying all residents of Mugumoini of the institution of this suit and inviting them to apply to be enjoined herein.

The Application is not contested.

I have considered the Application and the issue for determination is whether to enjoin the Applicants into this suit as Interested Parties. **Order 1 Rule 10 (2) of the Civil Procedure Rules, 2010** provides for joinder of parties and sets the criteria for who can be joined. This order provides that,

***“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added”.***

The main dispute in this suit is the issue of ownership of the parcel of land known as Nairobi/ Block 72/282 in which the Plaintiffs reside. The Plaintiffs are claiming ownership of the suit property by way of adverse possession. It is noteworthy that in instituting this suit, the Plaintiffs were aware that there were other parties also resident in Mugumoini who may also be interested in joining this suit upon which they applied to the court for an order permitting them to post a notice in the daily newspapers to notify such parties of the institution of this suit. The court allowed this by its order issued on 14<sup>th</sup> May 2013 and the Applicants have produced a copy of the newspaper advertisement that was published. This being the

position, I consider that the request by the Applicants to be enjoined into this suit due to their status as residents on the suit property is merited. The presence of the Applicants in this suit appears to me to be very similar to that of the Plaintiffs. I therefore allow the joinder of the Applicants into this suit. This Application is therefore allowed. Costs shall be in the cause.

**DELIVERED, DATED AND SIGNED AT NAIROBI THIS 28<sup>TH</sup> DAY OF APRIL 2017.**

**MARY M. GITUMBI**

**JUDGE**