



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

E.L.C. CASE NO. 727 OF 2015 (O.S)

IN THE MATTER OF LAND PARCEL NO. 13871(I.R NO. 47585);

AND

**IN THE MATTER OF AN APPLICATION FOR A DECLARATION THAT THE PLAINTIFFS
HAVE OBTAINED OWNERSHIP OF 2.226 HA. OF THE ABOVE SAID LAND BY ADVERSE
POSSESSION**

SARONE OLE RIAMET

SALOME SIANTO NISA

EMMANUEL LEKAKOI NAYAEMKOP

KIRANTI OLE KANAI.....PLAINTIFFS

VERSUS

MWAUCO COMPANY LIMITED.....DEFENDANT

RULING

The Defendant filed the application dated 9/10/2015 seeking to have the Nairobi City County Government joined as the 2nd Defendant in this suit. The Defendant also seeks to have the Plaintiffs produce copies of their identity cards, building plans approved by the Nairobi City Government, copies of the applications for electricity and water connections; and their trade licences before the case is heard and determined.

The application does not indicate the legal provisions under which it is brought. The Defendant seeks to join the Nairobi City County Government as a party because it has the statutory responsibility of planning, granting approvals, licensing, provision of water and other infrastructure within the Nairobi. The Defendant claims that the Nairobi City County Government has conspired with the Plaintiffs to defraud it of its property being L.R. Number 13871 ("the Suit Property").

In the Originating Summons filed in court on 29/7/2015, the Plaintiffs seek an order that the Defendant's title, interest or claim over L.R. No. 13871 has been extinguished and that the legal title should vest in the Plaintiffs who have been in adverse possession of the Suit Property. The 1st Plaintiff states in the supporting affidavit that the Plaintiffs' families have been in occupation of the Suit Property since 1970 and that they have been using the land for grazing and other economic activities. He states that they have built permanent and temporary structures on the Suit Property including houses, schools and a church. He

claims they got water and electricity connected to the Suit Property and that they carry out economic activities on the Suit Property.

The court has considered the application. Order 1 Rule 10 of the Civil Procedure Rules allows the court to order that any person who ought to be joined as a plaintiff or defendant be added if their presence is necessary to enable the court effectually and completely settle all questions in the suit.

The court is of the view that the Nairobi City County is not a necessary party in this claim made by the Plaintiffs whose claim is adverse to the Defendant's ownership of the Suit Property. The Plaintiffs claim to have been in possession from 1970. The court declines to grant the orders sought in the application dated 9/10/2015.

The Defendant can serve Notices to Produce Documents on the Plaintiffs for them to furnish the documents listed in the application. No evidence was placed before the court showing that the Suit Property is the subject of ELC No. 320 of 2008 which the court was told is scheduled to come up for hearing on 12/2/2018. The Defendant can make an application for the two suits to be heard together. The application is dismissed with costs to the Plaintiff.

Dated and delivered in Nairobi this 5th day of December 2017.

K. BOR

JUDGE

In the presence of:

No appearance Plaintiff

Mr. Ngatia for Defendant

Mr. V. Owuor- Court Assistant