



**Somoni v Muangi & 3 others (Environment & Land Case  
E343 of 2022) [2024] KEELC 917 (KLR) (22 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 917 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E343 OF 2022  
LN MBUGUA, J  
FEBRUARY 22, 2024**

**BETWEEN**

**JOYCE BOSIBORI SOMONI ..... PLAINTIFF**

**AND**

**SAMMY MUSILI MUANGI ..... 1<sup>ST</sup> DEFENDANT**

**AGENCIES LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**WINFRED KANINI MBONDO ..... 3<sup>RD</sup> DEFENDANT**

**THE CHIEF LAND REGISTRAR ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. The proposed Interested Party's Notice of Motion application dated 6.12.2023 is for determination, where he seeks leave to be joined in these proceedings as an Interested Party. The application is premised on grounds on its face and on his supporting affidavit sworn on 6.12.2023.
2. He avers that sometime in the year 2005, he entered into a joint venture agreement with the Plaintiff for the purpose of transacting in various business activities including but not limited to supplies and real estate among others.
3. That pursuant to the said agreement and with the consent of the Plaintiff, he appointed the 1<sup>st</sup> Defendant as his principal agent to his businesses which he trades as a sole proprietor to wit Kevans Agencies, Jim Grat Agencies, Jovans Agencies and Kesamu Pharmacy which he is registered with one Mark Jomo Osoro.
4. He avers that he was informed by the Plaintiff of the availability of prime properties known as LR No. 1/1081 (Original No. 1/222/14), LR No. 7785/996 (Original No. 7785/10/773) and Land Reference No. 209/3138 and upon request of the Plaintiff, he engaged the Defendant as his agent in procuring



- the properties on behalf of the Plaintiff from funds transferred from his business accounts to entities owned or controlled by the 1<sup>st</sup> Defendant.
5. He avers that he is shocked to learn that the 1<sup>st</sup> Defendant fraudulently transferred the properties to himself and to entities owned/controlled by himself without consent and or knowledge of the Plaintiff and himself, thus if the matter is determined with regard to ownership of the suit properties, he stands to be condemned without an opportunity to be heard and his interest in the properties will not have been ascertained.
  6. The application is opposed by the 1<sup>st</sup> - 3<sup>rd</sup> Defendants vide the 1<sup>st</sup> Defendant's replying affidavit sworn on 16.1.2024. He avers that the proposed Interested Party is his former brother in law, his marriage to the Plaintiff having dissolved on 9.1.2024 in Milimani CMC Divorce Cause No. E209 OF 2023.
  7. He denies that he was party to the venture agreement between the Plaintiff and the proposed Interested Party thus he did not have any contractual obligation to them.
  8. That he is in the business of supplies to the national and county governments and tenders for supplies using multiple entities to maximize on probability of success.
  9. That in 2009 - 2010, he engaged the proposed Interested Party for purposes of registration of several business names to wit; Kesamu Pharmacy, Jovans Agencies, Jimgret Agencies and Kevans Agencies and that he had other 6 businesses registered in his name and those of the 3<sup>rd</sup> Defendant who is his sister.
  10. That the said business names were for his exclusive use, thus he had the mandate to operate the business and bank accounts and every right to apply funds generated from the businesses as he wished as he was never an agent/employee of the Intended Interested Party.
  11. Vide a further affidavit sworn on 17.1.2024, the proposed Interested Party annexed a copy of a joint venture agreement dated 17.8.2005.
  12. The application was canvassed by way of written submissions. The Proposed Interested Party filed submissions dated 17.1.2024. He submits that he has a stake in the matter since some of the properties herein were purchased through funds transferred from his business accounts to entities owned/controlled by the 1<sup>st</sup> Defendant with the Plaintiff's consent.
  13. The cases relied on by the proposed Interested Party are; *Trusted Society of Human Rights v Mumo Matemu & 5 others [2014]* eKLR, *Kenya Medical Laboratory Technicians & Technologists Board & 6 others v Attorney General & 4 others [2017]* eKLR, as well as the case of *Judicial Service Commission v Speaker of the National Assembly & another [2013]* eKLR.
  14. On their part, the 1<sup>st</sup> - 3<sup>rd</sup> Defendants filed submissions dated 23.1.2024 contending that the Applicant has not met the threshold for being joined as an Interested Party as stated in the case of *Francis Kariuki Muruatetu and another v Republic and 5 others [2016]* eKLR. It is argued that the Applicant is just a joyrider whose interest is to aid the Plaintiff and settle personal scores with the 1<sup>st</sup> Defendant.
  15. The sole issue for determination is whether the Applicant has met the criteria to be joined in this matter as an Interested Party. The provisions of Rule 10 (2) of Order 1 of the *Civil Procedure Rules* allows this court to join a party or order removal of a party. The proposed Interested Party seeks to be joined in this suit on the basis of having availed made contribution to the purchase of some of the suit properties.



16. In *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others* [2014] eKLR the court defined an interested party as;

“...One who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or herself appears in the proceedings, and champions his or her cause...”

17. I find that while the proposed Interested Party alleges that the 1<sup>st</sup> Defendant withdrew money from his business accounts to fund purchase of the disputed parcels herein, there is no evidence of a principle agent relationship between the two indicating that the 1<sup>st</sup> Defendant was authorized to withdraw funds for the said purpose on behalf of his agent.

18. Further, the 1<sup>st</sup> Defendant was not a party to the Joint Venture Agreements dated 17.8.2005 between the Applicant and the Plaintiff.

19. Further, I note that at Paragraph 12 of the Plaintiff, the Plaintiff pleaded as to the source of her funds and would in the circumstances call evidence to that effect.

20. In the circumstances, the Intended Interested Party has not demonstrated sufficient interest to warrant the issuance of the orders sought. Thus, the application dated 6.12.2023 is found to have no merits and the same is hereby dismissed. Each party is to bear their own costs thereof.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF FEBRUARY, 2024 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

**Amandi holding brief for Kenyatta for Plaintiff**

**Muthama for 1<sup>st</sup> Defendant**

**Allan Kamau for 3<sup>rd</sup> Defendant**

**Anyoka for Proposed Interested Party**

**Court assistant: Eddel**

