



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

CIVIL CASE NO 133,134,258 OF 2010 & 177 OF 2007

SAMUEL NG'ANG'A NDIRANGU.....1ST PLAINTIFF
ELIZABETH WAMBUI MWANGI2ND PLAINTIFF
STANLEY KAMAU NDIRANGU.....3RD PLAINTIFF
EUNIC MUTHONI KARIUKI.....4TH PLAINTIFF
LUCY WANJIRU MURATHA.....5TH PLAINTIFF
EUNICE RUGURU NGANGA6TH PLAINTIFF
PHARIS KARIUKI MURATHA.....7TH PLAINTIFF
SILVESTER MOMANYI MARUBE.....8TH PLAINTIFF
KANUI WAMARA KANIU.....9TH PLAINTIFF
TERESIAN GATHONI MARA.....10TH PLAINTIFF

VERSUS

JOSEPH GATHONI IRUNGU.....DEFENDANT

RULING

(Application to be enjoined to suit as plaintiffs; applicants not demonstrating any claim they want to agitate in the suit if enjoined; applicants not showing any nexus between their interest and the matter at hand; application dismissed)

1. The application before me is that dated 21 May 2015 filed by two persons namely, Stephen Karimi Muruga and Peter Gichuki Njuguna. They want orders that they be enjoined to this case as plaintiffs. The reasons are that they had sued Bahati Women Company Ltd in Nakuru HCCC No. 223 of 2004, which case was compromised by a consent, which granted them 120 acres of land to be excised from the land parcel L.R No. 8669/1. They have also averred that there are other pending cases over the same subject matter but which do not mention their interest in the matter. They have mentioned the cases *Nakuru HCCC No. 177 of 2007 Consolata Wangechi Kuria & 403*

others vs Joseph Mathenge Muturi & 4 Others; Nakuru HCCC No. 134 of 2010, David Muchai Wanganga & 11 Others vs Wilson Siiya; and Nakuru HCCC No. 258 of 2010, Bahati Women Co. Ltd vs Joseph Muturi Mathenge & 25 Others. It is averred that for a comprehensive determination of all the issues surrounding the land parcel L.R No. 8669/1, it is imperative that they be enjoined in this case as plaintiffs. They say that any determination in the above suits will affect them as they are entitled to 120 acres of the suit property.

2. The application is not opposed by counsel for the plaintiffs and counsel for the defendants.

3. I however have my own problems with the application. It will be noted that the two persons want to be enjoined as plaintiffs in this case. But what exactly is their claim against the defendant, who is not Bahati Women Company Ltd ? That is not disclosed. One cannot be enjoined as a plaintiff in an existing suit unless such person has an ascertainable claim, which may be agitated within that suit, against the named defendant. A person cannot merely be enjoined as a plaintiff or defendant for the fun of it. There must be certain rights or prayers that such person wishes to pursue against the defendant in the suit, and these need to be made clear, before an application for joinder as plaintiff is allowed. I have no idea what claim the two applicants want to pursue in this matter, and what orders they want to seek in their favour against the defendant, in the event that they are enjoined as plaintiffs. They needed to make this clear, so that this court may assess such claim, and make an informed decision on whether such claim may be agitated in the present suit. Without this being disclosed, I am afraid I cannot allow the application.

4. Moreover, save for merely stating that they have a decree in their favour over the land parcel L.R No. 8669/1, the applicants have not shown me the connection between the decree which is in their favour, and the prayers sought in this case. From the pleadings, the plaintiffs in this case seek orders against the defendant in respect of the land parcels Mau Narok/Siapei/ Block 6/2,3,5,6,7,14, 15,16,114, 115,116, and 122. They claim that the defendant is a trespasser. The applicants have mentioned other suits which they say have a bearing on their land. I have looked at the pleadings in those suit. In Nakuru HCCC No. 134 of 2010, the plaintiffs are 12 in number. Again their claim is for trespass against one Wilson Siiya. They have claimed that land parcels Mau Narok/Siapei Block 6/407,410,411,412,414,747,748,751,754,755,756,757,758,759,760,761,764,765,766,769, and 770 belong to them and that Mr. Wilson Siiya has trespassed into them. They want orders to permanently restrain Wilson Siiya. In the suit Nakuru HCCC No. 177 of 2007, the plaintiffs are 404 persons who are shareholders of Bahati Women Group. Their quarrel is in the manner in which certain persons were introduced as members and/or directors of the company and they want their names struck out.

5. The applicants herein have not shown me the nexus between their 120 acres and the parcels of land in issue in the mentioned cases, or their interest in the running of the affairs of the company. In essence, I do not know the interest of the applicants and why they want to be enjoined as plaintiffs.

6. Given this lacuna, I am afraid that I cannot allow the application. It is hereby dismissed but since the other parties had no problem with it, I make no orders as to costs.

It is so ordered.

Dated, signed and delivered in open court at Nakuru this 18th day of June 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT AT NAKURU

In presence of:-

Mr Wambeyi for defendant and also holding brief for Mr Kipkoech for plaintiff.

N/A for M/s Mugambi Nguthari & Co for applicants (intended co-plaintiffs).

CA: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT AT NAKURU