



REPUBLIC OF KENYA



**KENYA LAW**  
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**Jepkemboi v Muyeze & 5 others (Environment & Land Case  
E007 of 2021) [2024] KEELC 1624 (KLR) (19 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1624 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT & LAND CASE E007 OF 2021**

**MN MWANYALE, J**

**MARCH 19, 2024**

**BETWEEN**

**JANE JEPKEMBOI ..... PROPOSED INTERESTED PARTY**

**AND**

**JOHN CHITI MUYEZU ..... 1<sup>ST</sup> PLAINTIFF**

**PHLIP AVUGWI NGADI ..... 2<sup>ND</sup> PLAINTIFF**

**ENOCK MILANO LIGONO ..... 3<sup>RD</sup> PLAINTIFF**

**GEOFREY ALIGULA KIRAHU ..... 4<sup>TH</sup> PLAINTIFF**

**SINEI FRED ..... 5<sup>TH</sup> PLAINTIFF**

**HESBON KIDULA MOI ..... 6<sup>TH</sup> PLAINTIFF**

**RULING**

1. This Ruling relates to the Notice Motion dated 12<sup>th</sup> January 2024 filed by Jane Jepkemboi seeking joinder in this suit as an Interested Party.
2. The Application is based on the grounds that;
  - i. The Applicant is one of the beneficiaries of the estate of Lucy Jepkirui Langat her deceased mother who was the daughter of the late Kipkorir arap Langat the registered owner of all that parcel of land known as Nandi/Kapngani/533. That her late mother Lucy Kepkirui Langat was one of the beneficiaries of the estate of her late father her portion been designated in the mutation form as 2286. Hence, she ought to be joined in the proceedings to represent her mother's interest in her siblings.



3. The Applicant has filed a supporting affidavit in support of the application, reiterating the grounds in support of the application and has annexed a letter from the Chief, Kapkangani Location, Limited Grant of Letter of Administration *Ad litem* and a copy of mutation form.
4. The Plaintiff/Respondent has filed Grounds of opposition, opposing the application, in the grounds that;
  - a. The Applicant has not demonstrated any justiciable grounds for being admitted as an interested party to the suit, has not demonstrated an identifiable stake or a legal interest, the Applicant has not been party to the transactions, or cause of action leading to institution of the suit, hence she will not assist the Court in settlement of this suit.
5. Parties were directed to argue the application orally but on the appointed day, the Applicant having filed written submissions, the Court allowed the Respondent to equally file their written submissions.

**Applicant's Submissions: -**

6. The Applicant submits that the provision of Order 1 Rule 10 (2) of the *Civil Procedure Rules*, allows for joinder of any party to proceedings. The Applicant places reliance on the decision in the case of *Habiba W. Ramadhani & 7 others v Mary Njeri Gitiba* (2017) eKLR, where the Court held that under Order 1 Rule 10 (2) the Court has discretion to order joinder of any party to a suit at any stage of the proceedings so long as the presence of that party before the Court is necessary in order to enable the Court to effectually and completely adjudicate upon and settle all questions in dispute.
7. It is the Applicant's submission that the proposed Interested Party is a beneficiary of the Estate of Lucy Jepkirui Langat who was the daughter of the Late Kipkorir Arap Langat the registered owner thus had a stake in the proceedings.
8. The Applicant placed reliance on the case of *Francis K. Muruatetu and another v Republic* on the elements to be met in a joinder application.
9. The Applicants submit they have met the said elements in the Muruatetu case, and urged the Court to allow the application.

**Respondents Submission: -**

10. The Respondent submits that the proposed Interested Party has not demonstrated the personal interests in the matter and has not shown how her presence before Court is necessary since the 1<sup>st</sup> and 2<sup>nd</sup> Defendants being the Administrators of Estate of the registered owner are sufficient to protect and prosecute her interests.
11. The Defendants in the suit are not opposed to the application for joinder.
12. Both the Applicant and the Respondent having cited the case of Muruatetu essentially agree on the elements of joinder, their paths diverge at the point where the Applicant seeks joinder so as to protect her late mother's interests, while the Respondents submit that the Defendants have sufficient locus to protect the Applicants mother's interest.

**Issues for Determination: -**

13. The issues for determination from the application, the affidavits and the submissions, the Court frames as follows; -
  - i. Whether the Defendants can represent the interests of the Applicants



- ii. Whether the Applicants have satisfied the elements for joinder
  - iii. Whether the application is merited
  - iv. Who bears the costs of the application?
14. In the Amended Plaintiff the Plaintiff has sued the Defendants as the administrators of the Estate John Kipkorir Langat at paragraph 3 of the Amended Plaintiff.
  15. Having been sued as the Administrators of the Estate of John Kipkorir Langat can the Defendants represent the interests of the Applicant intended interested Party.
  16. The succession cause in respect of John Kipkorir Langat was completed and the Estate distributed, and subdivisions of Nandi/Kapngani/533 was effected as pleaded at paragraph 5 of the Amended Plaintiff.
  17. It follows that the subject property having changed hands, the Defendants cannot represent the Estate of Lucy Jepkirui Langat. Had the Estate being intact the Defendants would have been in a position to represent the Applicants interests in the matter.
  18. I answer to issue number 1, the Court finds that the Defendants are incapable of representing the interests of the Applicant.
  19. On issue number 2, it is the Applicant's contention that her late mother was a beneficiary of the Estate of John Kipkorir Langat and the Estate having been distributed, her late mother had an identifiable interest severed from the interest of the Defendants, which the Applicant as an administrator of her late mother's Estate seeks joinder so as to protect, in these proceedings. The portion is Nandi/Kapngani/2286 which parcel has been pleaded at paragraph 5 of the Amended Plaintiff and is sought to be cancelled at prayer (a) of the suit.
  20. In this regard the Applicant has demonstrated sufficient and tangible interest in the matter and has met the threshold set in the *Muruatetu case* cited by both the Applicant and Respondent in support of their submissions.
  21. In answer to issue 2 and 3, having met the threshold for joinder the Application is merited and the proposed Interested Party is joined in the proceedings as an Interested Party as her application is allowed.
  22. Costs in the cause.
  23. Orders accordingly.

**RULING, DELIVERED AND DATED AT KAPSABET THIS 19<sup>TH</sup> DAY OF MARCH 2024.**

**Hon. M. N. Mwanyale,**

**JUDGE**

In the presence of;

1. Mr. Sang holding brief for Mr. Choge for 2<sup>nd</sup> Defendant
2. Mr. Rotich for Mr. Murgor holding brief for the Applicant/Proposed interested Party
3. Ms. Chelimo for the Respondent.

