



**Kanderi v Kiki Investment Limited & 3 others; Nadupa Housing Limited (Intended Interested Party) (Environment & Land Case 21 of 2019) [2024] KEELC 3289 (KLR) (22 April 2024) (Ruling)**

Neutral citation: [2024] KEELC 3289 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 21 OF 2019  
MN GICHERU, J  
APRIL 22, 2024**

**BETWEEN**

**NAIRESIAE ENE NEKAANDO KANDERI ..... PLAINTIFF**

**AND**

**KIKI INVESTMENT LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**GEORGE KARIUKI NGURE ..... 2<sup>ND</sup> DEFENDANT**

**DISTRICT LAND REGISTRAR, KAJIADO ..... 3<sup>RD</sup> DEFENDANT**

**ATTORNEY GENERAL ..... 4<sup>TH</sup> DEFENDANT**

**AND**

**NADUPA HOUSING LIMITED ..... INTENDED INTERESTED PARTY**

**RULING**

1. This ruling is on the notice of motion dated 4/4/2023. The motion which is brought under Sections 1, 1A, 3 and 3A of the *Civil Procedure Act*, Order 1 Rule 10(2) *Civil Procedure Rules* and any other enabling provisions of law seeks to have the applicant granted leave to join the suit as an interested party and to be allowed to participate in the suit and file written submissions before the final judgment is delivered.
2. The motion is based on thirteen (13) grounds and is supported by an affidavit sworn by Johnie Kinayia, the managing director of the interested party. In summary the applicant deposes as follows.  
  
Firstly, on 13/7/2016 the applicant purchased 80 acres of land from the 1<sup>st</sup> defendant which was hived off from L.R. Kajiado/Dalalekutuk/3469.



Secondly, before purchase, the applicant confirmed that the land belonged to the 1<sup>st</sup> defendant through an official search at the land registry.

Thirdly, the applicant paid the full purchase price of Kshs. 32 million and occupied the land by fencing, developing and selling off to third parties.

Fourthly, the plaintiff well aware of the occupation of the land by the applicant failed to serve it with the court processes in this case.

For the above and other reasons, the applicant craves to be heard before the court makes a final decision.

3. The motion is opposed by the plaintiff who has sworn a replying affidavit dated 17/5/2023 in which she deposes as follows.

Firstly, the application is a delaying tactic meant to halt the court from delivering justice to the plaintiff.

Secondly, the applicant is a stranger to the plaintiff and it was upon the 1<sup>st</sup> defendant to seek to join the applicant.

Thirdly, the applicant is a busy body brought into the suit by the defendant to try and confuse the court to digress and lose focus of the real issue in dispute.

Fourthly, the 1<sup>st</sup> and 2<sup>nd</sup> defendants have always contended that they are the registered owners of L.R. 3649 as can be seen at paragraph 15 of the counterclaim.

Fifthly, the applicant has not annexed a copy of title deed to prove ownership of the land or proof of payment of Kshs. 32 million as purchase price.

Sixthly, there is no proof of occupation or inclusion of a copy of a certificate of official search which would have shown a caution registered by the plaintiff on 29/7/2011.

Seventhly, the applicant only wants to come into the case at the submission stage and not to be cross-examined.

Finally, the motion as drafted is untenable and does not adduce sufficient grounds to warrant the grant of the orders sought.

4. Counsel for the parties filed written submissions dated 22/8/2023 and 7/10/2023 respectively and identified the following issue for determination.

**i. Whether the applicant should be allowed to join the suit as an interested party.**

5. I have carefully considered the notice of motion in its entirety including the affidavits, grounds, annexures, submissions and the case law relied upon. I have also considered the definition of an interested party and the wide discretion given to the court by order 1 Rule 10(2) of the [\*Civil Procedure Rules\*](#) to add a party to a suit at any stage of the proceedings so long as such addition enables the court to effectually and completely adjudicate upon and settle all questions involved in the suit.

6. I find merit in the motion dated 4/4/2023 for the following reasons.

Firstly, the applicant claims to be in occupation of 80 acres of the suit land. Such a party ought to be heard.

Secondly, the applicant claims to have developed the suit land or part of it. Let him join the suit and show us the development. Finally, it is not fair or just to condemn a party unheard when such party has shown that it has a stake in the subject matter. The motion dated 4/4/2023 is therefore allowed. Costs in the cause.



DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 22<sup>ND</sup> DAY OF APRIL 2024.

M.N. GICHERU

JUDGE

