



**Karanca v County Government of Meru & 5 others (Environment & Land
Case E008 of 2023) [2024] KEELC 5543 (KLR) (17 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5543 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE E008 OF 2023**

**CK NZILI, J
JULY 17, 2024**

BETWEEN

GEOFFREY KINJA KARANCA PLAINTIFF

AND

THE COUNTY GOVERNMENT OF MERU 1ST DEFENDANT

THE CHIEF LAND REGISTRAR 2ND DEFENDANT

THE COUNTY LAND REGISTRAR MERU 3RD DEFENDANT

THE DIRECTOR OF SURVEYS 4TH DEFENDANT

THE COUNTY DIRECTOR OF SURVEYS, MERU 5TH DEFENDANT

THE NATIONAL HOUSING CORPORATION 6TH DEFENDANT

RULING

1. When this matter came up for hearing on 13.6.2024, learned litigation counsel representing the 2nd & 3rd defendants told the court that Section 12 of the *Government Proceedings Act* had not been complied with by the plaintiff to include the Hon. Attorney General as a party to the suit. The counsel insisted that the pleadings by the plaintiff have to be amended to formally bring on board the Hon. AG so that a statement of defence can be filed.
2. Learned counsels Mr. Opolu and Maithya for the plaintiff submitted that their client had no complaint against the Hon. AG.
3. They termed the issue raised by the 2nd and 3rd defendants for not filing a statement as a delaying tactic.
4. Mr. Opolu submitted that the Chief Land Registrar and the director of surveys were capable of being sued without joining the Hon. AG.



5. In a rejoinder, Miss Mbaikyatta learned counsel submitted that unless the Hon. AG was joined, government officers such as the 2nd and 3rd defendants could not be defended by the Hon. AG.
6. The question as to whether it is mandatory to sue the A.G. was tackled in the *Council of Governors and Others v Senate & others* (2015) eKLR. The court said that whereas *the constitution* allows the Hon. AG the right to represent the national government in court proceedings, it does not mandatory stipulate that the Hon. AG should be sued in all instances where the organ of a national government has been sued.
7. Section 12 (1) of the *Government Proceedings Act* provides the subject to the provisions of any written law Civil proceedings by or against the government shall be instituted by or against the A.G as the case might be. Under Order 1 Rule 10 (2) *Civil Procedure Rules* to join a party is the discretion of a party by moving the court where there is a necessity or whose presence will enable the court to effectually and completely adjudicate upon a matter. It can happen at any stage of a suit. See *IMK v MWN & another* (2015) eKLR. He or she must be a necessary party where the ultimate order or decree cannot be enforced without his participation. See *Julius Meme v Republic & another* (2004) eKLR.
8. The suit before the court is against the 2nd – 4th defendants touching on their role regarding the plaintiff's title to land. The Hon. AG is not answering for the issues raised against the 2nd – 5th defendants.
9. The 2nd – 5th defendants have not stated how the necessity of the Hon. AG will help them in answering the issues pleaded by the plaintiff against them.
10. The upshot is I find no basis to order that the plaint be amended to include the Hon. AG as a substantive party to the suit if the 2nd – 5th defendants do not wish to defend the suit the matter shall proceed as per the law.
11. The plaintiff is at liberty to make the necessary applications in the absence of a statement of defence by the said parties.

DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU

ON THIS 17TH DAY OF JULY, 2024

In presence of

C.A Kananu/Mukami

Plaintiff

Situma for the 6th defendant

Mwirigi B for the 1st defendant

Maithya for Opolu for the plaintiff

Mbaikyatta for the 2nd – 5th defendant

HON. C K NZILI

JUDGE

