



Nyale & 3 others v Mwango & 4 others (Environmental and Land Originating Summons 47 of 2023) [2024] KEELC 13224 (KLR) (14 November 2024) (Ruling)

Neutral citation: [2024] KEELC 13224 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 47 OF 2023
EK MAKORI, J
NOVEMBER 14, 2024**

BETWEEN

**REUBEN TINGA NYALE 1ST PLAINTIFF
JOSEPH NYALE MWANGO 2ND PLAINTIFF
KASSIM MWANGO NYALE 3RD PLAINTIFF
EDWARD KAZUNGU NYALE 4TH PLAINTIFF**

AND

**KITI NYALE MWANGO 1ST DEFENDANT
KHAMIS NYALE MWANGO 2ND DEFENDANT
JOSEPHAT MUCHERE MARETE 3RD DEFENDANT
LAND REGISTRAR KILIFI 4TH DEFENDANT
ATTORNEY GENERAL MALINDI 5TH DEFENDANT**

RULING

1. The application dated 8th February 2024 seeks to have Sarah Wanjiru join these proceedings as an interested party with the attendant costs.
2. In her sworn affidavit deposed on 8th February 2024, Sarah Wanjiru, who is the applicant in this case, claims that on 21st July 2023, she entered into a commitment agreement with the 1st and 2nd defendants in respect to 2 acres to be hived from the suit property, Kilifi/Mtwapa/II, for a consideration of Kshs 10,000,000/—. A deposit of Kshs 1,000,000/—was paid on the signing of the agreement, and Kshs 500,000/—was paid on 23rd November 2023.



3. The first, second, and third Defendants oppose the application, contending that this is a collusion between the intended party and counsel for the plaintiff.
4. Parties were directed to canvass the application by way of written submissions.
5. Having meticulously considered the materials placed before me and the parties' submissions, I frame issues that will affect the determination of this application—whether to join the intended interested party in these proceedings and who should bear the costs of the application.
6. It is settled that the conditions for a party's joinder are as laid out in *Gladys Nduku Nthuki v Letsbago Kenya Ltd; Mueni Charles Maingi (Interested Plaintiff)* (2022) eKLR:
 - a. He must be a necessary party.
 - b. He must be a proper party.
 - c. In the case of a defendant there must be a relief flowing from the defendant to the plaintiff.
 - d. The ultimate order or decree cannot be enforced without his presence in the matter.
 - e. The presence is necessary to enable the court effectively and completely adjudicate upon and settle all questions involved in the suit.
7. The applicant has shown a purchaser's interest in the suit property. She will be a necessary party and proper party to be joined in these proceedings. The application dated 8th February 2023 is allowed. There is no order as to costs.

DATED, SIGNED, AND DELIVERED VIRTUALLY AT MALINDI VIRTUALLY ON THIS 14TH DAY OF NOVEMBER 2024.

E. K. MAKORI

JUDGE

In the Presence of:

Mr. Lijoodi for the Plaintiff

Ms. Apiyo, for the Proposed Interested Party

Ms Wambui for 1st, 2nd and 3rd Defendants.

Happy: Court Assistant

