



REPUBLIC OF KENYA



KENYA LAW
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**Mwangi v Kibugu & another (Environment & Land Case
303 of 2018) [2025] KEELC 2972 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 2972 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 303 OF 2018**

**A OMBWAYO, J
MARCH 28, 2025**

BETWEEN

SIMON MUIGAI MWANGI PLAINTIFF

AND

SOLOMON MURIITHI KIBUGU 1ST DEFENDANT

JAMES KIBUGU KIONI 2ND DEFENDANT

RULING

1. The plaintiff vide a Notice of Motion dated 13th November 2024 filed an application seeking for order that the plaintiff be allowed to amend plaint to enjoin Abdinasir Haji T/A Topline Traders Ltd as a third party.
2. That upon Abdinasir Haji T/A Topline Traders Limited being enjoined as Third Party in this suit, the said Third Party is be restrained either by himself, servants or agents from accessing, using or interfering in whichever manner or form with the suit property known as: Nakuru/Municipality/Block 8/6 pending the hearing and determination of this application. The Defendants jointly and severally be restrained either by themselves, servants or agents from dealing with the suit property known as: Nakuru/Municipality/Block 8/6 in a manner that may alienate the suit property or in a manner that may interfere with the plaintiff's full enjoyment of the suit property pending the hearing and determination of the suit. Costs be provided for by the defendants and the interested party. The application is based on grounds that the Plaintiff/ Applicant purchased half acre of the suit property known as: Nakuru/Municipality/Block 8/6 from the Defendants jointly and severally and met all the necessary statutory requirements and payments including approval from NEMA as required by the law and afterwards the Plaintiff invested heavily on the said suit premises.
3. Soon the Defendants began to interfere with the Plaintiff's business and went ahead to block the Plaintiff/ Applicant from accessing the property and the said Defendants have now introduced the



Third Party into the suit property which has deteriorated the situation and requires the court's intervention.

4. The application is opposed by the proposed third party on grounds that that the proposed 3rd party relies on order 1 rule 15 (1) of the *Civil Procedure Rules* 2010 that states that it is only the defendant who can enjoin a 3rd party in the suit and not the plaintiff. The defendant must claim contribution or indemnity from the 3rd party. The claim against the 3rd party must be a relief sought by the plaintiff against the defendant. This Court finds the application herein misconceived as the plaintiff has no power to enjoin a 3rd party. It is only the defendant who can enjoin a 3rd party. The application is dismissed with costs.

THE JUDICIARY OF KENYA

Doc IDENTITY: 393709195206581552719594050 Tracking

Number:OOAW4Z2025

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.

NAKURU ENVIRONMENT AND LAND COURT

ENVIRONMENT AND LAND COURT

DATE: 2025-03-28 12:03:59

