



Abade & 306 others v Karima & 3534 others (Environmental and Land Originating Summons 1257 of 2014 & 252 of 2011 & Environment & Land Case 509 of 2014 (Consolidated)) [2024] KEELC 14080 (KLR) (9 December 2024) (Ruling)

Neutral citation: [2024] KEELC 14080 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 1257 OF 2014 & 252 OF 2011 & ENVIRONMENT & LAND CASE 509 OF 2014 (CONSOLIDATED)

AA OMOLLO, J

DECEMBER 9, 2024

BETWEEN

JOHN OTIENO ABADE & 299 OTHERS & 299 OTHERS & 299 OTHERS & 299 OTHERS APPLICANT

AND

TERESIA WAIRIMU KARIMA 1ST RESPONDENT
ANNE WANGARE KIRIMA 2ND RESPONDENT

AS CONSOLIDATED WITH

ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 252 OF 2011

BETWEEN

STEPHEN MAINA MWENDWA 1ST PLAINTIFF
MARTIN IRUNGU MUTURI 2ND PLAINTIFF
SAMUEL ALILA AWUOR 3RD PLAINTIFF
CHARLES KOJO AGER 4TH PLAINTIFF
JOHN NDIRANGU NDEGWA 5TH PLAINTIFF
HARISSON KIRAGU GACHURU 6TH PLAINTIFF
SUING AS THE OFFICIALS OF MANATUTO SELF HELP GROUP AND ON BEHALF OF 1310 OTHERS

AND



**ALICE NJERI KIRIMA, ANNE WANGARI KIRIMA & JAMES NJUGUNA
KIRIMA (SUED AS COURT -APPOINTED ADMINISTRATORS, TRUSTEES
OR SIGNATORIES OF THE ESTATE OF GERISHON KARMAU KIRIMA -
DECEASED) 1ST DEFENDANT**

JOHN GERISHON KIRIMA 2ND DEFENDANT

**AS CONSOLIDATED WITH
ENVIRONMENT & LAND CASE 509 OF 2014**

BETWEEN

**NARIDAI MUOROTO SELF-HELP GROUP (SUING THROUGH ITS
OFFICIALS, JOHN MAINA MWANGI, SAMUEL NYAMOHANGA &
ANTHONY NYONGESA WAFULA) PLAINTIFF**

AND

ABDIKADIR HALAKHE JIRMA 1ST PROPOSED INTERESTED PARTY

**ABIDE FOR CHRIST CHURCH & MINISTRY 2ND
PROPOSED INTERESTED PARTY**

ABININASSIR HASSAN MOHAMED 3RD PROPOSED INTERESTED PARTY

ADO CHEKA MWANIKI 4TH PROPOSED INTERESTED PARTY

AGGREY OLANGO OGAMA 5TH PROPOSED INTERESTED PARTY

AKAI REGINA 6TH PROPOSED INTERESTED PARTY

AL AQSA MOSQUE 7TH PROPOSED INTERESTED PARTY

ALAN ACHIANDO 8TH PROPOSED INTERESTED PARTY

ALEX MWANGI 9TH PROPOSED INTERESTED PARTY

ALFRED LUSENAKA 10TH PROPOSED INTERESTED PARTY

ALFRED MUGOYA AOKO 11TH PROPOSED INTERESTED PARTY

ALFRED OMONDI ARUDNA 12TH PROPOSED INTERESTED PARTY

ALFRED OUMA ODANGA 13TH PROPOSED INTERESTED PARTY

ALFRICK OPIDI 14TH PROPOSED INTERESTED PARTY

ALICE ADHIAMBO 15TH PROPOSED INTERESTED PARTY

ALICE NANYAMA 16TH PROPOSED INTERESTED PARTY

ALLAN OCHIENG ACHIANDO 17TH PROPOSED INTERESTED PARTY

AMOS KIGEN KOSGEI 18TH PROPOSED INTERESTED PARTY

AMOS OMARI 19TH PROPOSED INTERESTED PARTY

AMOS OMONDI OCHIENG 20TH PROPOSED INTERESTED PARTY



ANERICO OUMA ODUOR	21 ST PROPOSED INTERESTED PARTY
ANITA ADHIAMBO OTEKU	22 ND PROPOSED INTERESTED PARTY
ANN A ONGIRI	23 RD PROPOSED INTERESTED PARTY
ANN AKINYI GUNDO	24 TH PROPOSED INTERESTED PARTY
ANN KERUBO	25 TH PROPOSED INTERESTED PARTY
ANN SAVALA	26 TH PROPOSED INTERESTED PARTY
ANNA ADHIAMBO	27 TH PROPOSED INTERESTED PARTY
ANNAH KERUBO NYAOSI	28 TH PROPOSED INTERESTED PARTY
ANNASTACIA K MWEMA	29 TH PROPOSED INTERESTED PARTY
ANNASTACIA MUTHOKI	30 TH PROPOSED INTERESTED PARTY
ANNASTACIA MWINZI	31 ST PROPOSED INTERESTED PARTY
ANNE BARAKA	32 ND PROPOSED INTERESTED PARTY
ANNE NDUATA	33 RD PROPOSED INTERESTED PARTY
ANTON MBANDA	34 TH PROPOSED INTERESTED PARTY
ANTONY ANYEGA MARUNGU	35 TH PROPOSED INTERESTED PARTY
ANTONY MAINA	36 TH PROPOSED INTERESTED PARTY
ANTONY MUNGAI KARITI	37 TH PROPOSED INTERESTED PARTY
ANTONY MWANGI WANYOIKE	38 TH PROPOSED INTERESTED PARTY
ANTONY NJUGUNA	39 TH PROPOSED INTERESTED PARTY
ANYIM IMELDA PAULINE	40 TH PROPOSED INTERESTED PARTY
ARISTARICO OJUEDO ONYANGO	41 ST PROPOSED INTERESTED PARTY
ARNEST OCHIENG AKELO	42 ND PROPOSED INTERESTED PARTY
AUSTINE OTIENO	43 RD PROPOSED INTERESTED PARTY
AWINO KAKOTH CHARLES	44 TH PROPOSED INTERESTED PARTY
AYELE KIMBO KURA	45 TH PROPOSED INTERESTED PARTY
AYUB OMONDI OLUOCH	46 TH PROPOSED INTERESTED PARTY
BARNABAS NYONDA	47 TH PROPOSED INTERESTED PARTY
BEATRICE AKINYI ODHIAMBO	48 TH PROPOSED INTERESTED PARTY
BENARD AYUMA ONGERI	49 TH PROPOSED INTERESTED PARTY
BENARD M MANTIBE	50 TH PROPOSED INTERESTED PARTY
BENARD MOBAGI	51 ST PROPOSED INTERESTED PARTY
BENARD OBONYO	52 ND PROPOSED INTERESTED PARTY



BENARD ONDIEKI 53RD PROPOSED INTERESTED PARTY
BENARD ONYANGO OMWENO 54TH PROPOSED INTERESTED PARTY
BENARD ONYANGO OSINO 55TH PROPOSED INTERESTED PARTY
BENARD RASUNGU 56TH PROPOSED INTERESTED PARTY
BENEDICT ERONDE 57TH PROPOSED INTERESTED PARTY
BENEDICT MUTUA KISILU 58TH PROPOSED INTERESTED PARTY
BENJAMIN OTIENO ONYOLO 59TH PROPOSED INTERESTED PARTY
BENSON IKUMBA KAMAU 60TH PROPOSED INTERESTED PARTY
BENSON MAFURA 61ST PROPOSED INTERESTED PARTY
BENSON MWANGI 62ND PROPOSED INTERESTED PARTY
BENSON OGILO 63RD PROPOSED INTERESTED PARTY
BENSON OKOTE 64TH PROPOSED INTERESTED PARTY
BENSON ONGANGA 65TH PROPOSED INTERESTED PARTY
BENSON W Nayonyi MAFURA 66TH PROPOSED INTERESTED PARTY
BERE GOLICHA CHOKE 67TH PROPOSED INTERESTED PARTY
BERNADETTE BONARERI NYAKEYA ... 68TH PROPOSED INTERESTED PARTY
BERNARD ODONGO 69TH PROPOSED INTERESTED PARTY
BETHWEL OCHIENG ODIIT 70TH PROPOSED INTERESTED PARTY
BETTY SHISANYA 71ST PROPOSED INTERESTED PARTY
BILHA ADHIAMBO 72ND PROPOSED INTERESTED PARTY
BILLIAH MMBASA 73RD PROPOSED INTERESTED PARTY
BILLIAH MBASU 74TH PROPOSED INTERESTED PARTY
BILLIAH MONYENYE PAUL 75TH PROPOSED INTERESTED PARTY
BOAZ OBARA 76TH PROPOSED INTERESTED PARTY
BRIAN OMONDI JUMA 77TH PROPOSED INTERESTED PARTY
BRIGID NDOMBI NAMULANDA 78TH PROPOSED INTERESTED PARTY
BROWN SHIGHALI MAGANI 79TH PROPOSED INTERESTED PARTY
CALEB ISIJU LUMWAYI 80TH PROPOSED INTERESTED PARTY
CALVIN OBIERO 81ST PROPOSED INTERESTED PARTY
CALVIN OLELA 82ND PROPOSED INTERESTED PARTY
CALVIN OMONDI OTIENO 83RD PROPOSED INTERESTED PARTY



CALVIN WASONGA OMONDI 84TH PROPOSED INTERESTED PARTY
CALVINCE OKOTH OTULO 85TH PROPOSED INTERESTED PARTY
CAROLINE ACHIENG' OCHARA 86TH PROPOSED INTERESTED PARTY
CAROLINE AKINYI 87TH PROPOSED INTERESTED PARTY
CAROLINE ANYANGO 88TH PROPOSED INTERESTED PARTY
CAROLYNE MIMA 89TH PROPOSED INTERESTED PARTY
CHARLE KAKOTH 90TH PROPOSED INTERESTED PARTY
CHARLES ADEGA OMONDI 91ST PROPOSED INTERESTED PARTY
CHARLES APUT 92ND PROPOSED INTERESTED PARTY
CHARLES ARAN AKUMU 93RD PROPOSED INTERESTED PARTY
CHARLES AWUONDA 94TH PROPOSED INTERESTED PARTY
CHARLES AWUONDA ANGIENDA 95TH PROPOSED INTERESTED PARTY
CHARLES CHERUIYOT' 96TH PROPOSED INTERESTED PARTY
CHARLES JAOKO 97TH PROPOSED INTERESTED PARTY
CHARLES KEYA 98TH PROPOSED INTERESTED PARTY
CHARLES MWAMBA 99TH PROPOSED INTERESTED PARTY
CHARLES NYAGIGO OPONDO 100TH PROPOSED INTERESTED PARTY
CHARLES NYAOKE 101ST PROPOSED INTERESTED PARTY
CHARLES O OKUSI 102ND PROPOSED INTERESTED PARTY
CHARLES OKARI 103RD PROPOSED INTERESTED PARTY
CHARLES OTIENO APUT 104TH PROPOSED INTERESTED PARTY
CHARLES OTIENO NYAMANGA 105TH PROPOSED INTERESTED PARTY
CHARLES OUMA MWAMBA 106TH PROPOSED INTERESTED PARTY
CHARLES SAMBA OGWEYO 107TH PROPOSED INTERESTED PARTY
CHATO ADO DARO 108TH PROPOSED INTERESTED PARTY
CHRIST THE HEAD OF CHURCH AFRICA 109TH
PROPOSED INTERESTED PARTY
CHRISTINE ACHIENG 110TH PROPOSED INTERESTED PARTY
CHRISTINE ACHIENG' A 111TH PROPOSED INTERESTED PARTY
CHRISTINE MUMBUA 112TH PROPOSED INTERESTED PARTY
CHRISTOPHER THEURI 113TH PROPOSED INTERESTED PARTY
COLLINS AYIER 114TH PROPOSED INTERESTED PARTY



COLLINS KWENA	115 TH PROPOSED INTERESTED PARTY
COLLINS LIKO ABERE	116 TH PROPOSED INTERESTED PARTY
COLLINS OJWANG'	117 TH PROPOSED INTERESTED PARTY
CORNEL ODHIAMBO OKENGO	118 TH PROPOSED INTERESTED PARTY
CYNTHIAN ALUOCH AWITI	119 TH PROPOSED INTERESTED PARTY
DALMAS ORIYA	120 TH PROPOSED INTERESTED PARTY
DALMAS OUMA OWUOR	121 ST PROPOSED INTERESTED PARTY
DAN AKUMU	122 ND PROPOSED INTERESTED PARTY
DAN BOSCO MUIA	123 RD PROPOSED INTERESTED PARTY
DANIEL CHEMOIYWO	124 TH PROPOSED INTERESTED PARTY
DANIEL GITANGA MAYAKA	125 TH PROPOSED INTERESTED PARTY
DANIEL MUSYOKA MUVALI	126 TH PROPOSED INTERESTED PARTY
DANIEL OKEYO	127 TH PROPOSED INTERESTED PARTY
DANIEL OKOTH AHERI	128 TH PROPOSED INTERESTED PARTY
DANIEL OSUSU NYAMOSI	129 TH PROPOSED INTERESTED PARTY
DAVID ADWERA	130 TH PROPOSED INTERESTED PARTY
DAVID MUTISYA	131 ST PROPOSED INTERESTED PARTY
DAVID OBONYO	132 ND PROPOSED INTERESTED PARTY
DAVID ODIYO ODIYO	133 RD PROPOSED INTERESTED PARTY
DAVID RADIALA	134 TH PROPOSED INTERESTED PARTY
DAWIN OUMA	135 TH PROPOSED INTERESTED PARTY
DENEDICT ENONDE	136 TH PROPOSED INTERESTED PARTY
DENIS MOSE	137 TH PROPOSED INTERESTED PARTY
DENIS OMAO	138 TH PROPOSED INTERESTED PARTY
DENNIS AWUONDE	139 TH PROPOSED INTERESTED PARTY
DENNIS KEONGO NYAEMA	140 TH PROPOSED INTERESTED PARTY
DENNIS M MABIA	141 ST PROPOSED INTERESTED PARTY
DENNIS MEJA OIGO	142 ND PROPOSED INTERESTED PARTY
DENNIS NJOGU	143 RD PROPOSED INTERESTED PARTY
DENNIS NYAKUNDI	144 TH PROPOSED INTERESTED PARTY
DENNIS ONYANGO OJOWI	145 TH PROPOSED INTERESTED PARTY
DENNIS OPEL	146 TH PROPOSED INTERESTED PARTY



DENNIS OSOSO	147 TH PROPOSED INTERESTED PARTY
DICKENS MARTIN OKEYO	148 TH PROPOSED INTERESTED PARTY
DICKSON KIMONDO	149 TH PROPOSED INTERESTED PARTY
DICKSON MURUNGA WAYELO	150 TH PROPOSED INTERESTED PARTY
DIFNA LIMARENG	151 ST PROPOSED INTERESTED PARTY
DOMINIC BOSIRE	152 ND PROPOSED INTERESTED PARTY
DOMINIC OYUGI BOSIRE	153 RD PROPOSED INTERESTED PARTY
DORAH ADHIAMBO	154 TH PROPOSED INTERESTED PARTY
NICHOLUS K NGETICH	155 TH PROPOSED INTERESTED PARTY
DOROTHY AJIAMBO	156 TH PROPOSED INTERESTED PARTY
DOROTHY OGUTU AKINYI	157 TH PROPOSED INTERESTED PARTY
DUNCAN MUTEKI	158 TH PROPOSED INTERESTED PARTY
DUNCAN OTIENO NYANGORE	159 TH PROPOSED INTERESTED PARTY
DUNCAN OUMA WABWIRE	160 TH PROPOSED INTERESTED PARTY
DUNCAN OUMA WABWIRE	161 ST PROPOSED INTERESTED PARTY
DUNCAN OUMA WABWIRE	162 ND PROPOSED INTERESTED PARTY
EDWARD KEYA	163 RD PROPOSED INTERESTED PARTY
EDWARD M MANTIBE	164 TH PROPOSED INTERESTED PARTY
EDWARD ODHIAMBO	165 TH PROPOSED INTERESTED PARTY
EDWARD OMBATI MANYIBE	166 TH PROPOSED INTERESTED PARTY
EDWARD OTIENO	167 TH PROPOSED INTERESTED PARTY
EDWARD SANYA	168 TH PROPOSED INTERESTED PARTY
EDWIN OCHIENG' EDWIN OUMA JUMA	169 TH PROPOSED INTERESTED PARTY
EDWIN OUMA JUMA	170 TH PROPOSED INTERESTED PARTY
EDWINA OCHIENG	171 ST PROPOSED INTERESTED PARTY
EDWINE O OLARE	172 ND PROPOSED INTERESTED PARTY
EKAYA ALMASI	173 RD PROPOSED INTERESTED PARTY
EKAYA ALUMASI GHONZOUR	174 TH PROPOSED INTERESTED PARTY
EKAYA ALUMASI GHONZOU	175 TH PROPOSED INTERESTED PARTY
ELIAS RANDIGA ARON	176 TH PROPOSED INTERESTED PARTY
ELIAS RANDIGA ARON	177 TH PROPOSED INTERESTED PARTY



ELIZABETH ANINDO	178 TH PROPOSED INTERESTED PARTY
ELIZABETH MBEYA	179 TH PROPOSED INTERESTED PARTY
ELIZABETH NJUGUNA	180 TH PROPOSED INTERESTED PARTY
ELIZABETH WANKIRU GATHAGU ...	181 ST PROPOSED INTERESTED PARTY
ELKANA SERETI MOTANYA	182 ND PROPOSED INTERESTED PARTY
ELKANAH MOKUA NDUMA	183 RD PROPOSED INTERESTED PARTY
ELLIS OMONDI	184 TH PROPOSED INTERESTED PARTY
ELLY OJWALA	185 TH PROPOSED INTERESTED PARTY
ELLY WALWENDA	186 TH PROPOSED INTERESTED PARTY
EMILLY OGATA	187 TH PROPOSED INTERESTED PARTY
EMILY HENRY	188 TH PROPOSED INTERESTED PARTY
EMMA MUTHONI KIMANI	189 TH PROPOSED INTERESTED PARTY
EMMANUEL ANDALA	190 TH PROPOSED INTERESTED PARTY
EMMANUEL OUMA ANDALA.	191 ST PROPOSED INTERESTED PARTY
ERIC N OMORO	192 ND PROPOSED INTERESTED PARTY
ERIC OMONDI OTIENO	193 RD PROPOSED INTERESTED PARTY
ERIC/PETER/BILHA	194 TH PROPOSED INTERESTED PARTY
ERICK MISIANI	195 TH PROPOSED INTERESTED PARTY
ERICK OCHIENG	196 TH PROPOSED INTERESTED PARTY
ERICK OCHILLO	197 TH PROPOSED INTERESTED PARTY
ERICK ODHIMABO OTULO	198 TH PROPOSED INTERESTED PARTY
ERICK OKISO	199 TH PROPOSED INTERESTED PARTY
ERICK OMONDI	200 TH PROPOSED INTERESTED PARTY
ERICK OTIENO	201 ST PROPOSED INTERESTED PARTY
ERICKSON SHIKOCH	202 ND PROPOSED INTERESTED PARTY
ESBON IRUNGU KAMAU	203 RD PROPOSED INTERESTED PARTY
ESBORU MASITA	204 TH PROPOSED INTERESTED PARTY
ESTHER ADHIAMBO ACHIANDO ...	205 TH PROPOSED INTERESTED PARTY
ESTHER AKOTH URIME	206 TH PROPOSED INTERESTED PARTY
ESTHER ANTONY	207 TH PROPOSED INTERESTED PARTY
ESTHER GACHERI	208 TH PROPOSED INTERESTED PARTY
ESTHER JOSEPHINE MUNJUGA	209 TH PROPOSED INTERESTED PARTY



ESTHER K WERUNGA	210 TH PROPOSED INTERESTED PARTY
ESTHER MUMBI MUNUVE	211 TH PROPOSED INTERESTED PARTY
ESTHER NJOGU	212 TH PROPOSED INTERESTED PARTY
ESTHER NYAGA	213 TH PROPOSED INTERESTED PARTY
EUNICE ADHIAMBO	214 TH PROPOSED INTERESTED PARTY
EUNICE WAIRIMU NDEGWA	215 TH PROPOSED INTERESTED PARTY
EVALINE AKUMU	216 TH PROPOSED INTERESTED PARTY
EVALYNE MALUSA	217 TH PROPOSED INTERESTED PARTY
EVANGELICAL CHRIST CHURCH OF AFRICA (ISAIAH)	218 TH PROPOSED INTERESTED PARTY
EVANS AKOKO OYARE	219 TH PROPOSED INTERESTED PARTY
EVANS MOMANYI NYAMBANE	220 TH PROPOSED INTERESTED PARTY
EVANS ODERO	221 ST PROPOSED INTERESTED PARTY
EVANS ORENDE EVANS ORENDE	222 ND PROPOSED INTERESTED PARTY
EVANS OSEKO MAGETO	223 RD PROPOSED INTERESTED PARTY
EVELYNE OLIECH	224 TH PROPOSED INTERESTED PARTY
EVERLINE A ALABU	225 TH PROPOSED INTERESTED PARTY
EVERLINE WHITE OKITA EVERLINE WHITE OKITA	226 TH PROPOSED INTERESTED PARTY
EVERLYN KAWILA MUTEKI	227 TH PROPOSED INTERESTED PARTY
EZEKIEL O RAKINDA	228 TH PROPOSED INTERESTED PARTY
FAITH ACHIENG MIENJE	229 TH PROPOSED INTERESTED PARTY
FAITH NYAURA	230 TH PROPOSED INTERESTED PARTY
FATUMA HUSSEIN & 3300 OTHERS & 3300 OTHERS & 3300 OTHERS & 3300 OTHERS	231 ST PROPOSED INTERESTED PARTY

RULING

1. The proposed 3531 interested parties filed two applications dated 13/11/2023 and 9/4/2024 seeking the following orders:
 - 1 Spent
 2. That this Honourable Court be pleased to enjoin the Proposed Interested Parties/Applicants to the suit herein.
 3. That pending the hearing of this Application, this Honourable Court be pleased to issue an order of Stay of execution of the Court Order dated 23rd October 2023 directing that the



proposed Interested Parties/Applicants who are in occupation of part of L.R. No. 6825/2 and L/R No. 5908/8 to vacate the said properties by the 31st of December 2023 in default, the Defendants/Respondents be at liberty to forcefully evict them.

4. That pending the hearing and determination of this Application, that Status Quo be maintained in favour of the proposed Interested Parties/Applicants herein.
 5. That pending the hearing and determination of the Application, this Honourable Court be pleased to issue an Order extending the period for which the Proposed Interested Parties/Applicants are to vacate the properties they presently occupy within the properties known as L.R. No. 6825/2 and L.R. No. 5908/8 for a period of ninety (90) days from the 31st of December 2023.
 6. That pending the hearing and determination of this Application, this Honourable Court be pleased to issue an Order of injunction restraining the Defendants/Respondents (anne Wangare Kirima And Theresia Wairimu Kirima) and/or their agents, servants and or assigns from forcefully evicting the Proposed Interested Parties/Applicants from the plots they each presently occupy within the properties known as L.R No. 6825/2 and L.R. No. 5908/8
 - 7 That costs of this Application be provided for.
 8. That such further and/or other orders be made as the court may deem fit and expedient.
2. The Applications were premised on the grounds set on its face and the affidavits sworn in support thereof.
 3. The applications were opposed vide the replying affidavits of Teresia W. Karima; Paul Ndungu Kioi and grounds of opposition dated 6/2/2024 by Anne Wangari Kirima, Mr. Kioi urged the Court to take judicial notice of the application pending before the Court of Appeal. He deposed that the Court of Appeal already gave status quo orders pending the hearing of the various applications filed against the judgement. Hence the prayers for stay of execution has been overtaken by events of having been dealt with by a higher court.
 4. On joinder of parties, the Respondents aver that the court is functus officio. Further that the Applicants do not desire to have the judgment altered in any way hence their joinder to these proceedings will serve no useful purpose. With regard to the motion dated 31/10/2023 by Gwandaru & Associates to join Bernado Vicezo De Masi as an Interested Party, Mr. Kioi reiterated that the court is functus officio and any dissatisfied party ought to move to the Court of Appeal.
 5. He averred that the application for setting aside the judgment is sub judice considering the existence of Civil Appeal NO E022 of 2024; Dennis Otieno Ounda and 4 others -Vs Teresia Wairimu Kirima & 28 Others and NBI Court of Appeal CA NO E012 of 2023 – Naridai Muoroto Self Help Group Vs James Gitundu & Others. That the application does not come within the parameters of Order 45 of the Civil Procedure Rules.

Analysis and Determination

6. The Applicants in the applications dated 13/11/2023 and 9/4/2024 want this court to join them as Interested Parties to the consolidated suits under the provisions of Order 1 Rule 10 (2) of the Civil Procedure Rules. The said rule provides thus:
 - (2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any



person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.

7. The purpose of joinder is stated that it is to enable the court effectually and completely adjudicate upon and settle all questions involved in the suit. In this case, the suit is already heard and determined. The 3531 proposed interested parties are seeking to join the suit post judgment. As deposed by Mr Kioi, they have not sought to alter the existing judgment in anyway. The additional prayer besides joinder is for an order of injunction restraining their eviction from properties L.R NO 6825/2 and 5908/8.
8. An order of injunction staying the execution of a decree can only be granted pending an event such as setting aside the decree or determination of an appeal. These Applicants have not prayed for either of the two events hence there would be no basis to grant the injunction orders prayed. In any event, it is pleaded that there is already an order for status quo issued by the Court of Appeal in a related matter. The order of status quo means that the Applicants are beneficiaries and will not suffer any risk of being evicted. I conclude by stating that the Applicants have not demonstrated by they should be joined to these proceedings. The application dated 13/11/2023 and 9/4/2024 are dismissed with no order on costs.
9. The 2nd application for joinder is dated 31/10/2023 seeking to join Bernado Viazio De Masi as an Interested Party. Besides joinder, he also prays that the judgment and decree be reviewed and/or set aside to enable a retrial. The grounds for setting aside a regular judgment were laid down in the case of Shah Vs Mbogo () E.A inter alia that the Applicants have a god defence to the claim.
10. The subject matter in this case was claim for adverse possession by the plaintiff particularly in ELC 1257 of 2014. One of the grounds listed in support of this mortion is that the estate of Dominico De Masi (Deceased) owns the suit property and they were shocked to lean that the estate of Gershom Kirima and John Gerishon Kirima were also claiming the land L.R 5908/8. That the emergence of the estate of Dominico De Masi as the owner of L.R 5908/8 is an important matter to warrant the review of the judgment.
11. Thus, the nature of defence this new person intends to raise is that of ownership. As between the existing parties, the plaintiffs claimed ownership through purchase and occupation. The ownership of Dominico De Masi is independent of the interests of the existing parties to be litigated on its own and in my view does not constitute a cause to review the judgment before a determination is made of who between the Kirima's and the Applicant own the suit property.
12. I am alive to the fact that the Applicant is a party to a new suit filed vide ELC LC PET. NO E027 of 2023 where the pertinent issues of ownership of the suit properties can be determined. For now, the present application is premature and I hereby proceed to strike it out. Each party shall bear their respective costs.

DATED, SIGNED & DELIVERED AT NAIROBI THIS 9TH DAY OF DECEMBER, 2024.

VIA EMAIL.

A. OMOLLO

JUDGE

