



**Mwangi v County Government of Nakuru (Environment & Land Case
27 of 2020) [2023] KEELC 231 (KLR) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 231 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 27 OF 2020
FM NJOROGE, J
JANUARY 26, 2023**

BETWEEN

LAWRENCE MAINA MWANGI PLAINTIFF

AND

COUNTY GOVERNMENT OF NAKURU DEFENDANT

RULING

1. On 28/2/2022 this court delivered a ruling and observed that the decision in ELC No 204/2014 did not resolve the issue of who was the proper owner of the suit land. The matter has now come up this morning for hearing. Mr Mbeche, to his credit, having arrived late, managed to draw the attention of this court when it gave him audience on his objections to the matter proceeding to hearing today despite the non-joinder of the Chief Land Registrar and the Land Registrar Nakuru as parties.
2. The objections to the proposition by Mr Mbeche were quite vociferous. Of all counsel present, none was for the idea and they gave their reasons which I took down, not least of which is that Mr Mbeche has had sufficient time to make the appropriate application on behalf of his client. The other point raised by the objecting counsel was that the persons named by Mr Mbeche could participate in the hearing simply as witnesses if summoned by court.
3. I have considered Mr Mbeche's proposition and the answers received from counsel for the other parties. Long ago it was said that the wheels of justice grind slowly. The situation this court finds itself in is that where pleadings have been closed and one party thinks that some more parties ought to be joined.
4. I have to view Mr Mbeche's proposal objectively in the light of the fact that this court has power to order joinder of parties to a suit at any stage in the proceedings as permitted by Order 1 Rule 10(2). Is there a limit as to when a party may apply for another additional party to be added or joined? I think not, and as earlier decisions have shown, joinder can be made even after judgment as long as justification is made.



5. Considering that the earlier litigation never resolved the ownership issue, should this court, now that it has been urged to do so, order joinder of the Chief Land Registrar and/or the Land Registrar Nakuru?
6. I think this issue should be left to counsel for the 1st respondent in the petition to decide, for the other parties have determined that the persons named can be summoned as witnesses.
7. Therefore, though the application has been made late in the day I will allow Mr Mbeche time to make an application as he may find appropriate to join the parties his client wishes to join in this suit. For that indulgence, and for coming this late, the 1st respondent shall pay penance by bearing the costs of this day of all the other parties. The 1st respondent to the petition shall therefore consider and make the appropriate application within 14 days hereof and also serve within that period.
8. The 1st respondent should by now be wary of the other parties' concerns that it is hell bent on scuttling the hearing each time this matter comes up, and thus avoid any delays in filing the application and should confine itself within the timeline allowed. This hearing is therefore adjourned.
9. This suit will be mentioned on 16/2/2023 to ascertain compliance by Mr Mbeche's client and for directions as to the further proceedings in the matter as may be then appropriate.

DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 26TH DAY OF JANUARY, 2023

MWANGI NJOROGE

JUDGE, ELC, NAKURU

