



**Hongxiu v Perfect Purity Gases Co. Ltd; Hengting (Intended Interested Party) (Civil Miscellaneous E160 of 2024) [2025] KEHC 1317 (KLR) (Civ) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1317 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CIVIL  
CIVIL MISCELLANEOUS E160 OF 2024  
JN MULWA, J  
FEBRUARY 28, 2025**

**BETWEEN**

**LIU HONGXIU ..... PLAINTIFF**

**AND**

**PERFECT PURITY GASES CO. LTD ..... DEFENDANT**

**AND**

**WANG HENGTING ..... INTENDED INTERESTED PARTY**

**RULING**

1. Before Court is the Intended Interested Party’s Chamber Summons dated 19<sup>th</sup> April 2024 seeking Orders:-  
  
That Wang Hengting, the intended interested party herein be and is hereby admitted to these proceedings as an interested party.
2. The application is expressed under section 1A, 1B and 3A of the *Civil Procedure Act* Cap 21 and Order 1 Rules 10 and Rule 25 of the *Civil Procedure Rules*, 2010, based on the grounds that the Applicant/ Interested Party is the registered proprietor of the shares forming the subject matter of these proceedings. The proceedings seek to dispose of, and/or transfer the Intended Interested Part’s shares in the Respondent Company to the Applicant without his input and involvement.
3. It is also the Applicant's deposition that the outcome of the case will directly affect him as proprietor of 20 shares he holds at Perfect Purity Gases Company Limited and that his stake and interest in the matter cannot be addressed by any of the other parties to the proceedings. For the foregoing the applicant states that it is in the interest of justice that the application be allowed.



4. The Applicant filed its submissions dated 23<sup>rd</sup> September 2024. The Respondents have not filed any responses to the application.
5. The sole issue for determination is whether the application is merited.

Order 1 Rule 10 (2) of the *Civil Procedure Rules* empowers the court to join to any proceedings a necessary party whose presence is crucial to enable the court to do justice between the parties. It provides as follows:

“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.” (Emphasis added.)

6. Additionally Rule 7 of the *Constitution of Kenya (Protection of Rights & Fundamental Freedoms) Practice & Procedure Rules* 2013 provides that an interested party can apply to be enjoined or the Court can move suo moto and enjoin a party to proceedings before it.

Rule 2 thereof defines an interested party as a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the Court but is not a party to the proceedings or may not be directly involved in the litigation.

7. The principles for joining an Interested Party in a suit are now well settled. The Supreme Court in the case of *Francis Kariuki Muruatetu & Another v. Republic & 5 Others* as consolidated with 16 of 2013; [2016] eKLR which set down the principles of joinder that;

“(37) From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

One must move the Court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:

- a. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
- b. The prejudice to be suffered by the intended interested party in case of non-joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.
- c. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”



8. The Intended Interested Party's case is that he is the registered proprietor of 20 of the shares forming the subject matter of these proceedings and that this is clearly acknowledged in prayer 1 of the Originating Summons dated 1<sup>st</sup> March 2024. These instant proceedings seek to obtain a forced transfer of his shares without his involvement.

9. Applying the standard set out in the *Muruatetu case* (*supra*), the court is persuaded that the Applicant on the face of the record has demonstrated an identifiable stake in the proceedings before the Court.

The application dated 19/4/2024 is therefore allowed as prayed. Costs of the Application shall abide outcome of the suit.

Orders accordingly.

**DELIVERED DATED AND SIGNED AT NAIROBI THIS 28<sup>TH</sup> DAY OF FEBRUARY 2025**

**JANET MULWA.**

**JUDGE**

