



**Macua v Officer Commanding Police Station Milangine & 3 others; Henia & 3 others (Interested Parties) (Civil Case E005 of 2024) [2025] KEHC 1019 (KLR) (Civ) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1019 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
CIVIL  
CIVIL CASE E005 OF 2024  
KW KIARIE, J  
FEBRUARY 28, 2025**

**BETWEEN**

**DANIEL NDONGA MACUA ..... APPLICANT**

**AND**

**OFFICER COMMANDING POLICE STATION MILANGINE .... 1<sup>ST</sup>  
RESPONDENT**

**INSPECTOR GENERAL OF THE POLICE ..... 2<sup>ND</sup> RESPONDENT**

**DIRECTOR OF CRIMINAL INVESTIGATIONS ..... 3<sup>RD</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTIONS ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**ANTHONY MAINA HENIA ..... INTERESTED PARTY**

**CIGMA BUSINESS CENTRE LIMITED ..... INTERESTED PARTY**

**HORIZON DRILLING COMPANY LTD ..... INTERESTED PARTY**

**JAMES KABUGI KIMANI ..... INTERESTED PARTY**

**RULING**

1. In the application dated the 4<sup>th</sup> day of June 2024, the proposed interested parties moved the court through a Notice of Motion under Order 53 Rule 3 (2) of the Civil Procedure Rules and Rule 5 of the Constitutional of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules. The applicants are seeking the following orders:



- a. For the reasons set out on the Certificate of urgency, this application should be certified as urgent and heard on a priority basis.
  - b. The applicant/proposed interested parties should be joined as interested parties and allowed to file pleadings and participate in the proceedings.
  - c. That costs this applicant to abide by the outcome of the entire suit.
2. The application is premised on the following grounds:
- a. That all the applicants/proposed interested parties are plaintiffs in a suit against the applicant. The suit touches on fraud and fraudulent misrepresentation in a land transaction.
  - b. Based on the facts and the circumstances of the matter, the applicants/interested parties lodged a criminal complaint before the respondents, and upon investigation, the applicant was arrested and arraigned in court.
  - c. Since the proposed interested parties are the complainants in the criminal case that the applicant seeks to challenge, they have an identifiable stake in these proceedings. They have a right to be heard under the Constitution and the Victim Protection Act. It is only fair that the proposed interested parties be joined in the proceedings herein.
3. The respondent opposed the application on the following grounds:
- a. That the applicants do not have a direct interest in the judicial review proceedings, as their grievances relate to a civil dispute regarding the sale of land.
  - b. The allegations made by the proposed interested parties pertain to a civil dispute regarding the sale of land. Such matters are better suited for resolution in civil proceedings rather than in a judicial review context.
  - c. Mr. Kamande's potential enjoinder raises significant implications for the integrity of the legal proceedings. His dual role as both an advocate and a party could lead to conflicts of interest that may compromise the fairness of the trial. The court must consider the ethical standards that govern legal practice, emphasising the necessity of maintaining clear boundaries between representation and personal involvement in disputes.
4. Though this is a judicial review matter, the interested parties have raised issues that cannot be wished away or ignored. Their complaint to the police has given rise to this case. The applicant is seeking orders that, if granted, will affect the rights of the interested parties. It is only fair to allow their application so that they can participate in the proceedings in the Judicial Review.
5. The application dated the 4<sup>th</sup> day of June 2024 is therefore allowed.

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

**KIARIE WAWERU KIARIE**

**JUDGE.**

