



Republic v Registrar of Societies; Registered Trustees of Pentecostal Christian Universal Church Kenya (Exparte Applicant); Nabwoba (Intended Interested Party) (Judicial Review Miscellaneous Application E078 of 2024) [2025] KEHC 5110 (KLR) (Judicial Review) (29 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5110 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E078 OF 2024**

**RE ABURILI, J
APRIL 29, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

THE REGISTRAR OF SOCIETIES RESPONDENT

AND

THE REGISTERED TRUSTEES OF PENTECOSTAL CHRISTIAN UNIVERSAL CHURCH KENYA EXPARTE APPLICANT

AND

MARGARET JIRONGO NABWOBA INTENDED INTERESTED PARTY

RULING

1. The application before this court is the Notice of Motion application dated 12th September 2024 filed by Margaret Jirongo Nabwoba the proposed interested party. The application seeks for her to be enjoined as an interested party in this matter. It is supported by her affidavit which is sworn on the even date.
2. The application is said to be made pursuant to Rule 7 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules. It is her case that she has sufficient interest in the subject matter and is a necessary party whose presence is indispensable to enable this Honourable Court to effectually and completely adjudicate upon all the issues in dispute.



3. According to the applicant, she is the bonafide chairperson of the Pentecostal Christian Universal Churches. Further, that she was unanimously elected in a meeting held on 27th June 2009 at the Church Headquarters- Kamukuywa Church to replace the deceased founder of the church, Arch Bishop Peter Masinde Wamakondi who died on 10th May, 2009.
4. The intended interested party also urges that alleged chairperson/Arch Bishop of the ex parte applicant, Peter Khakina Khaemba, is an impostor who has over the years variously attempted to 'eject' the Applicant from her rightful position as the bona fide presiding head and leader of the Pentecostal Christian Universal Church of Kenya.
5. In response, the respondent filed a replying affidavit to the application sworn by Maria Goretti Nyariki the Acting Registrar of Societies in charge of the Societies Section on 11th March 2025. It is deponed that both Margaret Nabwoba and Peter Khakina Khaemba allege that they are the bonafide Chairperson/Arch-bishop of the Pentecostal Christian Universal Church Kenya thus creating a dispute of who the legitimate office bearers of the society are.
6. Further, that the dispute pertaining to leadership of the Pentecostal Christian Universal Church arises where Margaret Nabwoba was introduced on record as Archbishop vide Form H dated 27th June, 2009. Subsequently, Peter Khakina Khaemba was introduced on record vide Form H dated 20th March, 2012.
7. It was also deposed that Margaret Nabwoba through Yano & Company Advocates lodged a complaint against Peter Khaemba and also that the dispute is rampant and yet to be solved. The deponent also urges that the applicant's annual returns for the year ending 31st December 2023 have not been approved due to a dispute in leadership brought vide a complaint letter dated 29th October 2023.
8. It is urged that the respondent will not approve the Annual Returns for the Pentecostal Christian Universal Church unless the dispute is settled amicably and as such the respondent has no objection to the application by Margaret Nabwoba to be added as an interested party to this suit.
9. According to the respondent, the application will enable the court determine the real issues in a dispute amongst all the parties thus the proposed interested party should be enjoined in this suit in the interest of fairness and justice.
10. The ex parte applicant in opposition to the application for joinder filed a replying affidavit sworn on 25th October 2024 by Peter Khakina Khaemba who introduces himself as the Chairperson/Arch-Bishop of the Applicant.
11. It is the applicant's case that the proposed interested party falsely claims to be the bona fide Chairperson/Archbishop of the church without providing any evidence. The respondent is said to consistently have confirmed that the Peter Khakina Khaemba is the duly recognized office bearer. Further, that the Registrar has reiterated this position through various correspondences, most recently on 19th February 2024.
12. According to Mr. Khaemba, the proposed Interested Party previously attempted to challenge the applicant's leadership in Kitale High Court Civil Suit No. 101 of 2010, which was dismissed for want of prosecution. It is also urged that she made unsubstantiated claims about the deponent's expulsion from the church, which the Registrar refuted.
13. It is the ex parte applicant's case that there is no live leadership dispute before any competent authority and that the proposed interested party's current application is an abuse of the court process. Further, that the judicial review proceedings at hand concern a public officer's failure to perform their duty as provided under the law and not a civil dispute over church leadership. According to the ex parte



Applicant if the intended interested party has any legitimate claims, she should pursue them through appropriate legal channels.

14. The application was canvassed orally before the court on 17th March 2025.
15. Ms. Irura counsel for the proposed interested party submitted that her client was elected to take over after her husband's death and that as such, she has interest in the instant matter.
16. Ms. Ahmed for the respondent in her oral submissions urged that the respondent was not opposed to the application for joinder and further that the proposed interested party had raised a complaint and that before the same was resolved, the matter was taken to court.
17. Mr. Bulowa, counsel for the applicant submitted that the intended interested party does not have an identifiable stake and further that the respondent wrote to them to the effect that their client was the office bearer. It was also submitted that if the proposed interested party has a complaint, the dispute can be resolved by the Registrar under Section 18 of the *Societies Act*. Counsel relied on Gilbert vs. District Land Adjudication & Settlement Officer, Igamba Ngombe [2024] eKLR in which case he submitted that the court held that joinder should delve if it changes the character of the dispute before court.
18. In a rejoinder, Ms. Irura submitted that annual returns can only be filed by the correct office bearers. Further, that the applicant formed a splinter group and she made reference to Kitale HC No.101 of 2010. It was her submission that the Notification of change of office bearers was filed with the Registrar of Societies.

Analysis and Determination.

19. I have considered the application for joinder of the proposed interested party, the supporting affidavit and annexures, the affidavits in response to the application and annexures therein and the oral submissions made by counsel for all the parties. I find the main issue for determination is whether the applicant should be enjoined to these judicial Review proceedings as an interested party.
20. The Black's Law Dictionary, 9th Edition at page 1232 defines an interested party as:

“A party who has a recognizable stake (and therefore standing) in the matter”
21. The ‘Mutunga Rules’, *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, *Legal Notice No. 117 of 2013*, define an interested party as:

“A person or an entity that has an identifiable stake or legal interest or duty in the proceedings and may not be directly involved in the litigation.”
22. The said Rules further at Part II Clause 7 provide that, a person with leave of the Court may make an oral or written application to be joined as an interested party. The Court may also on its own motion, join an interested party to the proceedings before it.
23. In Kenya Medical Laboratory Technicians and Technologists Board & 6 others v Attorney General & 4 others [2017] eKLR, Mativo. J. persuasively explained when an interested party ought to be enjoined in a proceeding. He stated that:

“A person is legally interested in the proceedings only if he can say that it may lead to a result that will affect him legally that is by curtailing his legal rights. In determining whether or not an applicant has a legal interest in the subject matter of an action sufficient to entitle him to be joined as an interested party the true test lies not so much in an analysis of what



are the constituents of the applicant's rights, but rather in what would be the result on the subject-matter of the action if those rights could be established. It is apparent that a party claiming to be enjoined in proceedings must have an interest in the pending litigation, but the interest must be legal, identifiable or demonstrate a duty”.

24. In *Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 others* [2014] eKLR the Supreme Court of Kenya held that:

“(22)In determining whether the applicant should be admitted into these proceedings as an Interested Party we are guided by this Court’s Ruling in the *Mumo Matemo* case where the Court (at paragraphs 14 and 18) held:

“An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”

25. The Supreme Court also established the rules that apply when evaluating an application to be enjoined in proceedings as an interested party in *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others SC Petition (Application) No 12 of 2013*. The principles were affirmed in the case of *Francis Karioko Muruatetu & another v Republic & 5 others, Sup Ct Petition No 15 as consolidated with Petition No 16 of 2015, [2016] eKLR* where the court stated:

“... 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:

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. 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. 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.”

26. Lastly, these are judicial review proceedings that were initiated in accordance with Order 53 of the Civil Procedure Rules. What does the Order provide for, in relation to interested parties?

27. Order 53 Rule 3 of the Civil Procedure Rules provides as follows:

3. Application to be by notice of motion

- (1) When leave has been granted to apply for an order of mandamus, prohibition or certiorari, the application shall be made within twenty-one days by notice of motion to the High Court, and there shall, unless the judge granting leave has otherwise directed, be at least eight clear days between the service of the notice of motion and the day named therein for the hearing.



- (2) The notice shall be served on all persons directly affected, and where it relates to any proceedings in or before a court, and the object is either to compel the court or an officer thereof to do any action in relation to the proceedings or to quash them or any order made therein, the notice of motion shall be served on the presiding officer of the court and on all parties to the proceedings.
- (3) An affidavit giving the names and addresses of, and the place and date of service on, all persons who have been served with the notice of motion shall be filed before the notice is set down for hearing, and, if any person who ought to be served under the provisions of this rule has not been served, the affidavit shall state that fact and the reason why service has not been effected, and the affidavit shall be before the High Court on the hearing of the motion.
- (4) If on the hearing of the motion the High Court is of the opinion that any person who ought to have been served therewith has not been served, whether or not he is a person who ought to have been served under the foregoing provisions of this rule, the High Court may adjourn the hearing, in order that the notice may be served on that person, upon such terms (if any) as the court may direct.

28. From the above provisions, it is clear that judicial review proceedings ought to be served upon all persons who may directly be affected by the proceedings and that the Court may on its own motion order that such other persons who may be directly affected by the proceedings but are not parties to the proceedings be served with the notice of motion.[emphasis added]
29. In the present case, the proposed interested party, Margaret Jirongo Nabwoba, has demonstrated that she claims a direct and identifiable legal interest in the subject matter of the proceedings. She contends that she is the bona fide Chairperson/Archbishop of the Pentecostal Christian Universal Church and that decisions made in these proceedings, particularly those concerning recognition of office bearers and filing of returns, will directly impact her legal standing and responsibilities within the church.
30. The dispute before the court, while primarily is one of administrative law concerning the respondent's duty to act under the *Societies Act*, inevitably touches on the legitimacy of the office bearers of the Church. The resolution of the question of whether the respondent has failed in its statutory obligation is intertwined with the competing claims of church leadership. Although the applicant argues that the dispute is not one of church leadership, the facts and prayers sought cannot be divorced from that underlying controversy and at the centre of it all is both the intended interested party and the deponent Peter Khakina Khaemba for the exparte applicant both claiming to be the bonafide heads of the Church, and therefore, who, in particular would be the person to file annual returns on behalf of the Church.
31. The applicant has also not demonstrated that the proposed interested party's participation would prejudice the proceedings or unduly expand the scope of the judicial review beyond its permissible boundaries. On the contrary, the participation of the proposed interested party may assist the court in contextualizing the alleged actions or inactions of the respondent, thereby enhancing the fairness and completeness of the adjudication process.
32. This Court is alive to the principle that joinder of a party to proceedings before the Court must not alter the character of the proceedings or convert judicial review into a forum for determining civil disputes, such as ownership or leadership tussles. However, where the subject matter of judicial review touches on facts that are central to the interests of a third party, the court has the discretion to enjoin such



a party as long as the threshold under the law is met. In this case, I am persuaded that the proposed interested party has established an identifiable and proximate interest that is likely to be affected by the outcome of these proceedings.

33. Having carefully considered the pleadings, affidavits, and submissions by all parties, I find that the proposed interested party has satisfied the legal threshold requirements for joinder as an interested party under Rule 7 of the Mutunga Rules and the guiding jurisprudence from the superior courts.
34. Accordingly, I allow the Notice of Motion dated 12th September 2024 and order that Margaret Jirongo Nabwoba is hereby enjoined to these proceedings as an interested party.
35. Finally, as the matter in issue raises issues which require adjudication, and as a church being a society can only sue and be sued through its registered trustees, on the court's own motion, I direct the exparte applicant to amend the Notice of motion to include registered Trustees of the Exparte applicant Church. The amended Notice of motion to be filed and served within seven days of today.
36. The costs of the application, shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29TH DAY OF APRIL, 2025.

R.E. ABURILI

JUDGE

