



**Gatamah ((Suing as an Administrator of the Estate of Elizabeth Mukuhi
Gatamah & Joel Wambugu Gatamah)) v Kabete Dam Limited & 4 others;
Njoroge & 2 others (Intended Interested Party) (Commercial Case E063 of 2019)
[2025] KEHC 11599 (KLR) (Commercial and Tax) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11599 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
COMMERCIAL CASE E063 OF 2019**

AA VISRAM, J

JULY 31, 2025

BETWEEN

**DENNIS WATHIGO GATAMAH PLAINTIFF
(SUING AS AN ADMINISTRATOR OF THE ESTATE OF ELIZABETH MUKUHI
GATAMAH & JOEL WAMBUGU GATAMAH)**

AND

**KABETE DAM LIMITED 1ST DEFENDANT
WINLOUKE PROPERTIES LIMITED 2ND DEFENDANT
WIDNES HOLDING LIMITED 3RD DEFENDANT
PINNACLES PROJECTS LIMITED 4TH DEFENDANT
I&M BANK LIMITED 5TH DEFENDANT**

AND

**WILLIAM NJOROGE INTENDED INTERESTED PARTY
ANJESH RAJNIKANT SHAH INTENDED INTERESTED PARTY
KALPA ANJESH SHAH INTENDED INTERESTED PARTY**

RULING

1. Before the Court is the Application dated 30th August, 2022, by the 2nd and 3rd Intended Interested Parties, Anjesh Rajnikant Shah and Kalpa Anjesh Shah (collectively, “the Applicants”), seeking to



be enjoined as interested parties in these proceedings. Upon joinder, they further seek leave to file a response to the application dated 29th October, 2021.

2. The Application is supported by grounds on its face and an affidavit sworn by Anjesh Rajnikant Shah on 30th August, 2022. No response has been filed by the Plaintiff or any of the Defendants. The Application was canvassed by way of written submissions, which I have considered.
3. The Applicants submit that the suit property, Land Reference Number 2951/651, comprises 12 villas, of which 5 have been sold. They state that they purchased Villa No. 3 from the 1st Defendant on 17th February, 2016, for Kshs. 70,000,000/-, which they fully paid. However, transfer of the villa has not been registered due to this Court's order of 15th April, 2019, issued without their knowledge or participation, which restrains dealings with 3 of the 12 villas.
4. The Applicants contend they meet the threshold for joinder as interested parties under Order 1, rule 10(2) of the *Civil Procedure Rules*, which empowers the Court to join a party whose presence is necessary for the effective adjudication of the matter.
5. They assert that they have a direct proprietary interest in villa no. 3, are adversely affected by the ongoing proceedings and the subsisting order, and have a substantial financial and equitable stake in the property. They argue that their interests are not adequately represented by any of the existing parties and that denial of joinder would violate their right to be heard under Article 50(1) of the *Constitution*.
6. They further contend that no party would suffer prejudice if joinder is allowed and that their joinder is necessary to protect their constitutionally guaranteed property rights under Article 40 of the *Constitution*.

Analysis and Determination

7. I have carefully considered the Application and the submissions on record. The Applicants seek joinder as interested parties. The principles guiding such applications are well established. A proposed party must demonstrate a stake in the proceedings, even if not initially a party, and that they are likely to be affected by the court's decision. Additionally, the court must be satisfied that their interests will not be adequately articulated unless they are joined to the proceedings.
8. In *Communications Commission of Kenya & 3 others v Royal Media Services Limited & 7 others; Nature Foundation Limited (Proposed Interested Party)* [2014] KESC 52 (KLR), the Supreme Court held that an interested party is one who has a stake in the proceedings and whose presence will assist the court in effectively and completely adjudicating upon and settling all questions involved in the matter.
9. It is undisputed that the Applicants fully paid for villa no. 3 and hold a direct proprietary interest in it. They are likely to be adversely affected by the outcome of this suit due to the existing order that has impeded transfer of the villa. I find that they have demonstrated a substantial financial and equitable stake in the subject matter of this suit.
10. No party has opposed the Application, and I am satisfied that no prejudice will be occasioned to any existing party if the Applicants are joined.
11. The Applicants also sought leave to file a response to the Application dated 29th October, 2021. However, this Application has already been determined by this Court in its ruling of 15th July, 2024. Consequently, this prayer has been overtaken by events and cannot be granted.



Conclusion and Orders

- 12. In light of the foregoing, the Application dated 30th August, 2022, is allowed to the following extent: -
 - a. Anjesh Rajnikant Shah and Kalpa Anjesh Shah are hereby joined to this suit as the 2nd and 3rd Interested Parties respectively.
 - b. The prayer for leave to respond to the application dated 29th October, 2021, is declined as it has been rendered moot.
- 13. There shall be no order as to costs.

DATED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS 31ST DAY OF JULY, 2025

ALEEM VISRAM, FCIArb

JUDGE

In the presence of;

Court Assistant: Sakina

.....for Plaintiff

..... for 1st Defendant

..... for 2nd Defendant

.....for 3rd Defendant

.....for 4th Defendant

..... for 5th Defendant

.....for 1st Interested Party

.....for 2nd Interested Party

.....for 3rd Interested Party

