



Case Number:	Judicial Review 475 of 2011
Date Delivered:	20 Jul 2012
Case Class:	Civil
Court:	High Court at Nairobi (Milimani Law Courts)
Case Action:	Ruling
Judge:	Mohammed Abdullahi Warsame
Citation:	REPUBLIC V CITY COUNCIL OF NAIROBI & 2 OTHERS EX PARTE PERGOLLAS LIMITED [2012] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Civil
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	Summons Dismissed
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

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REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW 475 OF 2011

REPUBLIC.....APPLICANT

VERSUS

CITY COUNCIL OF NAIROBI.....1ST RESPONDENT

THE MINISTER FOR LOCAL GOVERNMENT.....2ND RESPONDENT

THE ATTORNEY GENERAL.....3RD RESPONDENT

EX PARTE: PERGOLLAS LIMITED

RULING

The applicant, Eva RatiaLikimani has brought this application by way of Chamber Summons dated 19th February 2010 seeking the following orders:

- a) That leave be granted to Eva Likimani to be joined as an Interested Party.
- b) That leave be granted to file an affidavit
- c) That costs be provided for.

The Application is founded on the grounds that:

1. The subject proceedings touch on some documents submitted to the City Council on behalf of EvaRatiaLikimani;

2. Eva RatiaLikimani would like to clarify her involvement with the suit property and counter allegations put forward touching on herself.

The application is supported by the Affidavit of Eva RatiaLikimani sworn on 19th February 2010.

The application is opposed by the ex parte Applicant herein through grounds of opposition dated 5th March 2010. The grounds of opposition are that the Applicant has no *locus standi* as she is not the owner of the suit property, and that the application is an abuse of the court process since the latest application for planning permission was not made out in her name. The exparte Applicant prays that the application be dismissed with costs.

The Applicant was the original proprietor of LR No. 12495/13, which she sold to Julius KagoiyaKubai and Mary Kubai in 1987. The Applicant however feels that she has a sufficient interest in the matter because the ex parte Applicant has presented falsehoods to the court by presenting documents which contain her forged signature. Counsel for the Applicant submits that Order LIII allows the court to join any proper person who desires to be heard with respect to a motion before court, and that in this instance, the Applicant is a proper person to be heard.

The exparte Applicant in opposition argues that the applicant has no *locus standi* to be enjoined in the proceedings as she is not the registered owner of the suit, that she is not a person directly by the judicial review application and that she has not demonstrated to this court how she will be affected by these proceedings. Counsel further submits that since the Applicant has no proprietary rights to the property, she will not add any value to these proceedings.

I have considered all the arguments and documents filed by the parties.

It is clear that the applicant has no interest in the matters or issues between the ex parte Applicant and the Respondents. There is no doubt that her rights were extinguished by a sale transaction conducted and concluded in 1987. It is not the case of the Applicant that the orders sought or likely to be given after full determination would be detrimental to her interests and rights. I am therefore in total agreement with learned counsel for the ex parte Applicant that the Applicant would not add any value to these proceedings. The orders, prayers and reliefs would not in any way affect her. I therefore make a decision that the application is misconceived, unnecessary and an attempt to convolute a simple and straight forward matter.

For this reason, the chamber summons dated 19th February 2010 is dismissed, with no orders as to costs.

Dated at Nairobi this 20th day of July, 2012

M. WARSAME

JUDGE



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