



**Koech v Nyanyuki (Environment & Land Case 885 of 2012)  
[2023] KEELC 16377 (KLR) (23 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 16377 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 885 OF 2012  
EO OBAGA, J  
MARCH 23, 2023**

**BETWEEN**

**LOICE JERUTO KOECH ..... PLAINTIFF**

**AND**

**CHARLES OMARIBA NYANYUKI ..... DEFENDANT**

**RULING**

1. This is a ruling in respect of a notice of motion dated August 27, 2021 in which the Plaintiff seeks leave of court to amend the plaint to include a prayer for refund of purchase price.
2. The Plaintiff and the Defendant had entered into a sale agreement whereby the Plaintiff wanted to purchase from the Defendant LR No Eldoret Municipality/Kipkaren 15/900. The sale did not go through forcing the plaintiff/Applicant to file this suit in which she sought for eviction orders and permanent injunction against the Defendant/Respondent.
3. The Applicant contends that her previous advocate did not include a prayer for refund of the purchase price. She now wants to amend the plaint to include a prayer for refund of the purchase price.
4. The Applicant's application was opposed by the Respondent based on a replying affidavit sworn on June 14, 2022. The Respondent contends that he has already refunded a sum of Kshs 300,000/= to the Respondent's previous advocate and that the Applicant declined to receive further refund of the purchase price.
5. The parties were directed to file written submissions within 14 days but none filed the submissions. I have considered the Applicant's application as well as the opposition to the same by the Respondent. The only issue is whether the court should grant leave to amend.



6. This suit was filed in 2012. The agreement was entered into in 2008. The Respondent in 2017 acknowledged that he owed the Applicant money and attempted to pay the same. The applicant however declined to receive the money.
7. The policy in law is that amendments to pleadings are to be freely allowed unless by allowing them the opposite side will be prejudiced or suffer injustice which will not be compensated in costs.
8. In the instant case, the Respondent will not suffer any prejudice if the plaint is amended as he has indicated his willingness to refund the purchase money. I therefore allow the application for amendment and direct that the amended plaint be filed in court within 14 days. The costs of this application shall be in the cause.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 23<sup>RD</sup> DAY OF MARCH, 2023.**

**E. O. OBAGA**

**JUDGE**

**In the virtual presence of;**

**Ms. Koech for Plaintiff/Applicant**

**Court Assistant –Laban**

**E. O. OBAGA**

**JUDGE**

**23RD MARCH, 2023**

