



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL SUIT NO. 217 OF 2003

AMERICAN LIFE INSURANCE COMPANY (K) LTD.....PLAINTIFF/APPLICANT

VERSUS

EGERTON UNIVERSITY.....DEFENDANT/RESPONDENT

RULING

1. This ruling is a subject of chamber summons application dated 28th June 2018, filed by the Plaintiff (herein “the Applicant”) under the provisions of Sections 1A, 1B and 3A of the Civil Procedure Act, Cap 21 Laws of Kenya, Order 1 Rules 10 and 14 of the Civil Procedure Rules, 2010 and all other enabling provisions. It is supported by the grounds on the face of it and an affidavit sworn by Jackson Mbutia Kiboi, the Deputy Legal Manager in the Risk and Compliance Department.
2. The Applicant is seeking for orders that it be granted leave to substitute its name with name of Liberty Life Assurance Kenya Limited and that it be allowed to amend its Plaint dated 16th April 2003 and filed in Court on 23rd April 2003 in the terms of the amended draft Plaint annexed to the application.
3. Thereafter, the amended draft Plaint be then deemed to have duly been filed and served upon payment of the requisite Court filing fees.
4. The Applicant avers that, the reason why it seeks to amend its name, is because, in the year 2005, it underwent a corporate restructuring whereby it sold its life insurance business to CFC Life Assurance Limited that took over all its assets and liabilities in life division. As a result thereof, it effectively ceased providing any Life Insurance services and/or having any legal rights in the suit herein.
5. That subsequently, in the month of October 2014, CFC Life Assurance Limited rebranded its name to Liberty Life Assurance Kenya Limited which now has the legal right to claim against the Defendant for the moneys payable under the three insurance policies which are the subject matter of this suit.
6. The Applicant averred that the delay in filing this application was due to non-availability of the Court file which allegedly went missing in 2014. That even then, the Defendant will not suffer any prejudice by the substitution and subsequent amendment.
7. The application was not opposed in that, although there is an affidavit of service from the High Court dated 8th October 2018 sworn by Moses Fredrick Onyango to the effect that the Respondents were served with the subject application, they did not file any documents in respond thereto.
8. I have considered the application and I find that, for the expeditious disposal of the matter, and in the interest of justice, I shall allow the application and hereby do, with orders thereof that costs be in the cause.
9. Those then are the orders of the Court.

Dated, delivered and signed in an open Court this 26th day of February 2019.

G.L. NZIOKA

JUDGE

In the presence of:

Ms. Mutuku for Mr. Nyachoti for the Applicant

No appearance for the Respondent

DennisCourt Assistant