



REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

CIVIL CASE NO. 14 OF 2018

MARY WAIRIMU MUSINDI.....PLAINTIFF

VERSUS

LINET AMULI.....1ST DEFENDANT

REITZ MUREITHI.....2ND DEFENDANT

PETER MBURU.....3RD DEFENDANT

NATION MEDIA GROUP.....4TH DEFENDANT

RULING

1. By an application dated 19th September 2018 and filed on even date, the plaintiff sought leave to amend her plaint filed on the 29th March 2018 for purposes of bringing to the court the real questions in controversy between the parties.

The proposed Amended plaint is an annexure to the applicant's supporting affidavit.

2. The defendants oppose the application by grounds of opposition filed pursuant to provisions of **Order 51 rule 14 (1) (c) of the Civil Procedure Rules(CPR)**.

Along with the Draft Amended plaint, the applicant has filed certificate of electronic evidence under provisions of **Section 65(8) and 106 (B) of the Evidence Act**.

3. I have considered the application and the grounds of opposition as well as parties submissions on the matter of electronic evidence.

Order 8 rule 5(1) of the CPR grants the court general powers to amend pleadings for purposes of bringing all relevant factors in a case with a view to assist the court to determine all the issues together. Hence unless there is serious objection such orders should be freely granted if the amendments do not cause prejudice and injustice to the other side.

4. The court will however refuse leave to amend if the amendments will change the cause of action to a different action. – **Court of Appeal in Coffee Board of Kenya -vs- Thika Coffee Mills Ltd & 2 Others (2014) e KLR**.

Considering the intended amendments, I find no reason to deny the applicant the right to amend. I find no prejudice or injustice to the defendants by the proposed amendments.

5. A case belongs to the plaintiff and the language of the High Court is English. If the plaintiff in this case decides to use other language other than English in some phrases, then it is upon such plaintiff to provide an English translation of the same. However, if not done it is still at the plaintiff's discretion as the court, during hearing would pronounce itself on the admissibility of such evidence.

6. To that extent, and having considered the very detailed submission by Mr. Kagucia Advocate for the defendants, I proceed to allow the application dated 19th September 2018 in terms of prayer (1) that the Applicant is granted leave to amend its plaint filed on the 29th March 2018.

Such Amended plaint shall be filed and served within 10 days of this ruling.

7. Costs of the application shall be costs in the cause.

Dated, signed and delivered this 25th Day of April 2019.

J.N. MULWA

JUDGE