

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MALINDI

CIVIL SUIT NO. 32 OF 2016

WILLIAM BARUA NYAMBU

(Suing as Legal Administrator of the Estate of Kahunda Kono Karisa-Deceased).....PLAINTIFF

VERSUS

EMMANUEL KAZUNGU CHAI.....1ST DEFENDANT

HASSAN KATANA CHARO.....2ND DEFENDANT

ORDER

1. The Plaintiff, William Barua Nyambu (suing at the Legal Administrator of the Estate of Kahunda Kono Karisa-Deceased filed an Amended Plaint on 12th April, 2018. This was done long after interlocutory judgment was entered for the Plaintiff on 3rd October, 2017 and without the leave of the court. The amendment was carried out after the pleadings had closed and the leave of the court was required before the amendment could be effected—see Order 8 of the Civil Procedure Rules, 2010 on amendment of pleadings.

2. It is also noted that the interlocutory judgment was entered on the strength of the original plaint. As matters stand the amended plaint cannot be considered and it ought to be struck out. However, the Plaintiff must have had good reason for amending the plaint. In the circumstances, I find that it is only just and fair not to write a judgment based on the original plaint.

3. Consequently, this file is returned to Malindi High Court to enable the Plaintiff take the necessary steps before the judgment can be written by the Judge at Malindi High Court.

Dated and Signed at Nairobi this 24th day of April, 2019

W. Korir,

Judge of the High Court

Dated, Countersigned and Delivered at Malindi this 23rd day of May, 2019

R. Nyakundi,

Judge of the High Court