



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

ENVIRONMENT AND LAND CASE NO.203 OF 2012

RUTH MWARI KILEMI.....1ST PLAINTIFF
JAPHET MUTIGA M'RUBI.....2ND PLAINTIFF
ISAIYA M'ITUBIRI M'ITUMA.....3RD PLAINTIFF
M'MUTIGA M'ELIMANA.....4TH PLAINITTF

VERSUS

JOSPHAT MWILARIA.....1ST DEFENDANT
CAXTON KAUNYANGI AYUB.....2ND DEFENDANT
DISTRICT LAND ADJUDICATION &
SETTLEMENT OFFICER TIGANIA..... 3RD DEFENDANT
HON.ATTORNEY GENERAL..... 4TH DEFENDANT

RULING

This Application is dated 30th June, 2015 and seeks Orders:-

1. **THAT** the 1st and 2nd Defendants/Applicants be granted leave to amend their statements of defence on record, in terms of the annexed draft amended statements of defence.
2. **THAT** Timothy Mwingirwa Mutiga be enjoined in this case as the 5th Defendant
3. **THAT** costs of this Application be in the cause.

It is supported by the Affidavit of Josphat Mwilaria and Caxton Kanyangi Ayub and has the following grounds:-

- i. **THAT** the 1st and 2nd Defendants'/Applicants' statement of defence on record leave out pertinent facts like the numbers of their parcels of land and how they acquired them.
- ii. **THAT** the ground claimed by the Plaintiffs/Respondents actually belong to the 1st and 2nd Defendants & Timothy Mwingirwa Mutiga, whose presence in this case is indispensable. The three are relatives and their parcels of Land originate from their ancestral clan land.
- iii. **THAT** the afore-said details which are missing in the statements of defence are critical and

- cardinal in determining the true owners(s) of the suit lands on the ground.*
- iv. ***THAT*** the amendment sought shall enable the Court to determine all the issues at variance amongst the parties effectually, once and for all and with finality.
 - v. ***THAT*** the Plaintiff shall not be prejudiced at all, by the relief sought.

On 22/07/2015, the parties by consent agreed that the Application be allowed.

In the Circumstances, it is allowed. I do direct as follows:

1. ***Defendants to amend their defences within 30 days of today and the Plaintiffs to amend their Complaint within 30 days of service upon them with the Defendants amended defence by the Defendants.***
2. ***Plaintiffs to put in papers to substitute the 2nd Plaintiff within 30 days.***
3. ***Costs shall be in the cause.***
4. ***Upon achievement of the amendment of the defences and the Complaint, Parties to obtain a mutually convenient date for directions from the Registry.***

Delivered in Open Court at Meru this 22nd day of July, 2015 in the presence of :-

Cc.: Lilian/Daniel

Gichunge for Plaintiffs

Mbaabu for Defendants

P.M. NJOROGE

JUDGE