



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

PETITION NO. 31 OF 2015

ANDERSON MWIRIGI MURITHI (Suing as the legal representative of

BENJAMIN M'MURITHI M'MUKETHA alias

BENJAMIN MURITHI – DECEASED.....**PETITIONER**

VERSUS

COUNTY EXECUTIVE COMMITTEE MEMBER FOR LANDS,

ICT AND PLANNING.....**1ST RESPONDENT**

COUNTY GOVERNMENT OF MERU.....**2ND RESPONDENT**

RULING

1. By an application dated 24.11.2021 pursuant to **Rule 3, 18 and 19 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice & Procedure Rules 2013**, the petitioner seeks to be allowed to amend the petition dated 12.11.2015 to introduce the particulars of breach of the alleged Constitutional rights which will enable the court to determine the real question in issue. The application is supported by the affidavit sworn by Anderson Mwirigi Murithi on 24.11.2021.
2. The reasons given for non-inclusion of the particulars of breach of Constitutional rights is due to sheer inadvertence. Further, the petitioner avers that there will be no prejudice to the respondent's since they will have an opportunity to reply to the petition once amended.
3. **Rule 18 of 2013 Constitution of Kenya (Protection of Rights & Fundamental Freedoms) Practice and Procedure Rules** grants the court the power to allow a party wishing to amend its pleadings to do so at any stage of the proceedings.
4. The petition herein has been heard through viva voce evidence currently at defence stage.
5. **Rule 18 of the Rules** require the court to be guided by the general principle that an amendment ought to be allowed as long as the same is not frivolous or may occasion prejudice to the opposing party as held in **Mombasa Cement Ltd. –vs- Speaker of the National Assembly & 2 Others [2016] eKLR.**
6. In **Geysler International Assets Limited –vs- Attorney General & 3 others [2019] eKLR,** the court held a party should be allowed to make amendments as are necessary for the determination of the real issues in controversy or avoiding a multiplicity of suits and that an amendment for joinder of parties would be allowed provided there was no undue delay, avested or accrued, right has not been affected and no injustice or prejudice would be occasioned to the other side.
7. Looking at the proposed amendments, I think they are genuine, and or made in good faith and with a view of ensuring all issues before court are clearly brought out.
8. Given the petition has proceeded through viva voce evidence, it is apparent from the proceedings that the respondents have had an occasion to cross examine the petitioner on the issues raised in the proposed amendments and if need be, they will still have an opportunity to reply to the amendments.
9. It is in the interest of justice therefore that I proceed to allow the application.

10. The amended petition shall be filed and served within 7 days from the date hereof.

11. Respondents are granted leave to file any responses within 14 day upon service.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS AT MERU THIS 9TH DAY OF FEBRUARY, 2022

In presence of:

Mutisya for petitioner

Mutembei for respondents

Court Assistant - Kananu

HON. C.K. NZILI

ELC JUDGE