



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT KERICHO**

**ENVIRONMENT & LAND CASE NO.32 OF 2014**

JOHN KINYANJUI KARANJA.....PLAINTIFF

VERSUS

KENYA POWER &

LIGHTING COMPANY LTD..... DEFENDANT

**R U L I N G.**

***(Application to amend plaint; mode of amendment of plaint; need to underline added words and strike out deleted words; application allowed but plaintiff directed to amend as required by the rules.)***

The application before me is that dated 20th July, 2015 filed by the plaintiff. It is an application seeking to amend the plaint which is not opposed by the defendant.

The case of the plaintiff is that he is owner of the land parcel Kericho/Kipsitet/851. His quarrel with the defendant is that they encroached into his land, damaged the perimeter fence and made a road through his land. In his suit he has asked for the following prayers :-

*(a) Damages for trespass.*

*(b) mesne profits.*

*(c) Costs of the suit.*

I have looked at the application and the draft of the proposed amended plaint. The draft of the amended plaint is not very well done because some of the new amendments are not underlined as required by the rules. I can however see that what the plaintiff wants to do, is add a new paragraph 7A to specify the amount of damages that he seeks, which is the sum of Kshs. 2,527,560/=. This amount is also proposed to be included as part of his prayers.

I have no serious problem with the amendments. However, the amended plaint has to be well underlined as required by the rules, which unfortunately, has not been done in the draft of the amended plaint annexed to the application. I wish to draw the plaintiff and his counsel to the provisions of Order 8 Rule 7 which is drawn as follows :-

***7. Mode of amendment [Order 8, rule 7.]***

*(1) Every pleading and other documents amended under this Order shall be endorsed with the date of the amendment and either the date of the order allowing the amendment or, if no order has been made, the number of the rule in pursuance of which the amendment was made.*

*(2) All amendments shall be shown by striking out in red ink all deleted words, but in such a manner as to leave them legible, and by underlining in red ink all added words.*

*(3) Colours other than red shall be used for further amendments to the same document.*

In our case, the new words have not been underlined. There is also an addition and a rearrangement of the original prayers, which means that there is an amendment in the numbering of the prayers sought. There is need, as provided by the rules, for the amendments to be done properly and I advise the plaintiff to follow strictly the provisions of Order 8 Rule 7. Save for that direction, I do allow the plaintiff to amend his plaint. I further direct that the amended plaint be filed and served within 14 days from today.

The plaintiff will shoulder the costs of the application as he had opportunity to plead his case properly in the first instance.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT KERICHO THIS 13<sup>th</sup> DAY OF NOVEMBER, 2015.**

**MUNYAO SILA**

**JUDGE**

**ENVIRONMENT & LAND COURT**

**In the presence of:**

1. N/A on part of M/s Ngugi Mwaniki & Co.Advocates for Plaintiff/Applicant.
2. N/A on part of M/s Wamaasa, Masese, Nyamwange & Co.Advocates for Defendant/Respondent.