



**Kenya Church of Christ (Suing through Bishop Peter Macharia Wachira) v Keingati & 6 others  
(Environment & Land Case 266 of 2017) [2022] KEELC 3025 (KLR) (26 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 3025 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 266 OF 2017**

**LN MBUGUA, J  
MAY 26, 2022**

**BETWEEN**

**KENYA CHURCH OF CHRIST ..... APPLICANT  
SUING THROUGH BISHOP PETER MACHARIA WACHIRA**

**AND**

**PETER KARUMBI KEINGATI ALIAS JOSEPH KARUMBI  
KEINGATI ..... 1<sup>ST</sup> RESPONDENT  
ANDREW WATIKI GIKORE ..... 2<sup>ND</sup> RESPONDENT  
JOSEPH NDUATI NGENDO ..... 3<sup>RD</sup> RESPONDENT  
SAMWEL KARANJA KAMAU ..... 4<sup>TH</sup> RESPONDENT  
KIAMBU DANDORA COMPANY LIMITED ..... 5<sup>TH</sup> RESPONDENT  
CHIEF LANDS REGISTRAR, MINISTRY OF LANDS ..... 6<sup>TH</sup> RESPONDENT  
KARIRA KINAYANJUI THUO ..... 7<sup>TH</sup> RESPONDENT**

**RULING**

1. On March 1, 2022, this court gave a raft of directions inter-alia, that a ruling shall be delivered in respect of the application dated October 27, 2021. Therein, the applicants who are 3rd & 7th Defendants are seeking leave to file and serve an amended defence with a counter-claim. They contend that they are true owners of the suit property and that they continue to suffer as Plaintiffs have illegally taken possession thereof.
2. The Plaintiffs have opposed the application via the replying affidavit of the 2nd Plaintiff averring that they stand to be prejudiced as pre-trial directions had been taken. That the application is an after



though and an abuse of the court process. They contend that they are the true owners of the suit properties.

3. I have considered all the issues raised herein. I have also perused the draft amended defence and counter-claim where inter-alia there is a counter-claim to the effect that 3rd Defendant is the registered owner of the suit property.
4. The provisions of Order 8 rule 3(1) of the Civil Procedure Rules stipulate that:
  - “1) Subject to Order 1, rules 9 and 10, Order 24, rules 3, 4, 5 and 6 and the following provisions of this rule, the court may at any stage of the proceedings, on such terms as to costs or otherwise as may be just and in such manner as it may direct, allow any party to amend his pleadings.”
5. The court of Appeal of East Africa in the locus classicus Case of *Eastern Bakery v Castelino* [1956] EA 461 held that amendments sought before the hearing should be freely allowed if they can be made without injustice to the other side.
6. This is a case which has not taken off, and as per the last directions given by the court, 1st Defendant is in the process of filing their pleadings, while Plaintiff was directed to serve their pleadings upon the firm of Odero Were Advocates. It follows that pre-trial directions have not been fully undertaken.
7. In that regard, I allow the application dated October 27, 2021 in the following terms:
  1. The 3rd and 7th Defendants are granted leave to file and serve their draft amended defence and counter-claim within 14 days, failure to which such leave shall lapse.
  2. The Plaintiff (and any other party) is at liberty to file their defence thereof within 14 days from date of service.
  3. The 3rd and 7th Defendants, shall bear costs of the application.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF MAY, 2022 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

M/S Muema for the Plaintiff/Respondent in the Ruling

Awandu holding brief for Were for the 1st Defendant

Court Assitant: Eddel

