



**Muriuki v Mbobua (Environment & Land Case 34 of 2020)
[2022] KEELC 3579 (KLR) (11 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 3579 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE 34 OF 2020**

CK NZILI, J

MAY 11, 2022

BETWEEN

GERALD MURIUKI APPLICANT

AND

BENSON MBOBUA RESPONDENT

RULING

1. The plaintiff seeks to amend the originating summons herein in terms of the proposed annexed draft amended originating summons to the supporting affidavit sworn by Gerald Muriuki on January 18, 2022.
2. Though the respondent was granted 7 days to respond to the application dated January 19, 2022 no reply has been filed to date. Under order 8 rule 5 (1) of *Civil Procedure Rules* is that court would allow an amendment as long as it does not seek to replace a cause of action with a new one and where there would be no prejudice occasioned to the opposite party such as denying a party it a right of defence which has accrued. See *Ochieng vs First American Bank of Chicago* civil appeal no 147 of 1991.
3. Looking at the proposed amendments it appears the plaintiff is seeking to bring out facts on the subdivisions which have occurred to the suit premises and subsequent transfers.
4. In essence the plaintiff is bringing on board all the issues and facts so as to enable the court to conclusively and finally determine them.
5. I do not see any prejudice the proposed changes would occasion to the defendant.
6. I allow the application. The amended originating summons shall be filed and served within the next 30 days upon the defendant and Naftaly Monte Samson as an interested party to this suit.

Orders accordingly.



DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 11TH DAY OF
MAY, 2022

In presence of:

Plaintiff

HON C K NZILI

ELC JUDGE

