

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL CASE NO. 252 OF 2008

WILFRED JOSAI MKONJI1ST PLAINTIFF
GRACE CHAWUCHA MKOJI 2ND PLAINTIFF

VERSUS

1. GEORGE PATRICK MWASHIGADI1ST DEFENDANT
2. STEPHEN MUCHORA KAGURE 2ND DEFENDANT
3. COMMISSIONER OF LANDS 3RD DEFENDANT

R U L I N G

This is an application for leave to amend the defence of the 2nd Defendant. The Plaintiff filed a Replying Affidavit in opposition.

However, upon a consent order that the application be disposed of by written submissions the Plaintiffs failed to file their written submission.

I have considered the application and the replying affidavit. I have also considered the written submissions by the 2nd Defendant. Despite the findings of this court that there was contempt in these proceedings, the contemnor was duly punished and the interim orders are still in force.

The case is still pending and it is not known how the rest of the case will go.

I think that there is no bar for the 2nd Defendant to amend his pleading. All allegations are still subject to proof on the merits.

I do grant prayer 1. The amended defence be filed and served within 14 days. Costs shall be in the course.

Dated and delivered this 11th March 2011

M. K. IBRAHIM
JUDGE