



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

Civil Case 378 of 1997

JEMIMA MORAA SOBU.....PLAINTIFF

VERSUS

TRANS-NATIONAL BANK LIMITED.....DEFENDANT

RULING

The plaintiff's application dated 14<sup>th</sup> September 2006 seeks leave to re-amend the plaint in terms of a draft that is annexed to the application. The purpose of the amendment is to bring out all the issues in controversy.

The defendant did not file a replying affidavit but put in grounds of opposition. The hearing date for the application was fixed in the presence of Mr. Ochoki who held brief for the defendant's advocate. However, the defendant's advocate did not attend court when the application came up for hearing.

It is now settled law that amendments to pleadings sought before a hearing should be freely allowed if they can be made without causing injustice to the other party. See EASTERN BAKERY –VS- CASTELINO [1958] E.A. 46. I do not see any injustice that would be occasioned to the defendant by allowing the plaintiff's application to amend her plaint.

Consequently, I allow the application and direct that the amended plaint be filed within the next 14 days from the date hereof. The appropriate court filing fees for the special damages sought should be paid. The plaintiff shall bear the costs of the application.

**DATED, SIGNED AND DELIVERED AT KISII THIS 22<sup>ND</sup> DAY OF JUNE, 2010.**

**D. MUSINGA**  
**JUDGE.**  
**22/6/2010**

Before D. Musinga, J.

Mobisa – cc

N/A for the plaintiff

Mr. Gichana for the Defendant/Respondent

**Court:** Ruling delivered in open court on 22<sup>nd</sup> June, 2010.

**D. MUSINGA**  
**JUDGE.**