



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Civil Case 194 of 2004**

PETER K. YEGO.....1ST PLAINTIFF

MUSA BOIT.....2ND PLAINTIFF

MICHAEL KIPRUTO t/a AINOPTICH BOREHOLE WATER PROJECT.....3RD PLAINTIFF

VERSUS

PAULINE NEKESA KODE.....DEFENDANT

RULING

The plaintiffs seek through their Chamber Summons dated 4th February 2010 and brought under **Order 1 Rule 10(2)** and **Order 6A Rules 3** and **5** of the **Civil Procedure Rules** as well as **Section 3A** of the **Civil Procedure Act** to amend their plaint and substitute the name of Peter K. Yego with that of Michael Chepkewel and also join Kalenjin Enterprises Ltd as one of the defendants. In his affidavit in support of the application Musa Boit the 2nd defendant has deposed that during the recent elections of the officials of the Ainoptich Borehole Water Project, Michael Chepkewel replaced Peter K. Yego as the chairman of that Project. He should also replace him in this suit. He further averred that M/S Kalenjin Enterprises Ltd was the original owner of the suit land which was allocated to the project and should also be brought on board for the effective and proper determination of this suit.

For the defendant Mr. Okeke opposed the application as totally misconceived and unmeritorious. He said as far as the defendants are concerned this is not a representative suit. So the issue of replacing the former chairman with the current one does not arise.

I have considered these arguments. Though the plaint could have been better worded, I disagree with Mr. Okeke that this is not a representative suit. The heading of the plaint shows that the three named plaintiffs are trading as Ainoptich Borehole Water Project and in paragraph three thereof they are described as the Chairman, Secretary and Treasurer respectively of that project.

In the circumstances I allow this application and order that the plaintiffs shall amend and serve the amended plaint within fifteen days. The defendants have corresponding leave to amend their defence within fifteen days of service. The costs of this application shall be costs in cause.

DATED and DELIVERED at Nakuru this 9th day of June, 2010.

**D. K. MARAGA
JUDGE.**