

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KISUMU

Civil Suit 43 of 2003

JOHN OSEWE OGOLA & 46 OTHERS.....PLAINTIFFS

VERSUS

**RAGHBIR SINGH SANDU T/A HOTEL ROYAL.....
DEFENDANT**

RULING

Under Order 6A Rule 8 of the Civil Procedure Rules, pleadings may be amended on an oral application to that effect.

The general power to amend any defect or error in any proceeding in a suit and any other necessary amendment is donated by Section 100 of the Civil Procedure Act.

The applicant is therefore within the legal boundaries in applying to orally amend the Chamber Summons dated 6th May 2009.

However, it has now been noted by this court that the suit is actually in progress and had commenced on 27th January 2004 before Warsame J – before being taken over by Tanui – J on 24th May 2004 and eventually by Mwera J – on the 18th February 2009.

In the circumstances and considering that the grounds of opposition to the chamber summons sought to be amended are also directed at the provisions of the law cited, it would not be prudent to allow an informal application for amendment notwithstanding the alleged typographical errors.

A formal application would give the respondent ample and proper opportunity to challenge the intended amendment.

Consequently, it is now directed that the applicant makes a formal application for amendment as by law established.

Dated, signed and delivered at Kisumu this 9th day of October 2009.

J. R. KARANJA

JUDGE

JRK/aao