



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 2367 of 1996

1. Land and Environmental Law Division
2. Civil Practice and Procedure
3. Subject of main suit land – trespass
4. Leave to amend the defence and counter claim
5. Related file Kajiado PMCC69/05 Civil case No.199/99
6. In reply – application opposed and is time barred.
7. Held: Application be and is hereby allowed
8. Case law – nil
9. Advocate:

L.S. Sane for Sane & Co. Advocates for the defendant/applicant- present

K.M.Marete for Keriako Tobiko & Co. Advocates for the plaintiff/respondent – present

NJANGOTET OLE PAIMPAI SEMERA & 3 OTHERS.....PLAINTIFFS

VERSUS

OSILALEI GROUP RANCH & 15 OTHERS.....DEFENDANTS

RULING

1: Background

1. The plaintiff/respondent sued the Osilalei Group Ranch on the issue of allocation of land. They sued for injunction restraining the 1 defendant from allocating transferring and in any way disposing of the parcel of land known as Kajiando Osilalei/1.

2. The defendant filed defence and counter claim and stated the land was divided fairly. They claim in counter claim on trespass and construction of the land.

3. It hereby noted that the defendant prays for amendment of the defence and counter claim by an application of 13 June 2007. This court was informed of a related file. The said file took a considerable time to reach this court. I did so as the said plaintiff stated that the matters in issues are the same as raise in the Kajiado court case PMCC69(OS).

In that said suit there is also an amendment that has been applied for. The matters in issue land upon the same subject matter as in this high court case. It is a suit filed well after this High court and had been filed.

4. I do not think that this matter have is time barred. The issue is one of trespass the advocate is of the opinion that a claim must be brought within 3 years. The issue of Limitation of Actions can be raised within the main suit.

5. I accordingly allow the application for leave to amend the defendant and enjoin 3 other partners. That the said defence amended be filed within 14 days of to days date and leave to file amended plaint and reply to counter claim within 14 days of service.

Dated this 31st day of July 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

L.S. Sane for Sane & Co. Advocates for the defendant/applicant- present

K.M.Marete for Keriako Tobiko & Co. Advocates for the plaintiff/respondent - present