

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU**

Civil Appeal 62 of 2004

RODAH GATWIRIAPPELLANT

VERSUS

KATHURIMA MUGAMBI.....RESPONDENT.

(FROM ORIGINAL CONVICTION AND SENTENCE IN MERU CIVIL CASE NO. 62 OF 2004)

R U L I N G

The applicant herein is seeking leave to amend her plaint by deleting the year 2002 and substituting therewith 1st October 2003 as the date the defendant is alleged to have wrongfully entered the suit land. Secondly the proposed amendment seeks to plead a prayer for declaration that the suit land belongs to the plaintiff. Finally the applicant is seeking to specify the date from which her claim for mesne profit accrued.

The application was argued *ex parte* as there was neither a reply to it nor attendance by the respondent or his counsel. Amendments to pleadings sought before the hearing should be freely allowed if the court is satisfied that no injustice shall be occasioned to the other side and there will be injustice if the other side can be compensated by costs. The amendments sought cannot cause any injustice to the respondent. They are fairly straight forward, intended to clarify the plaintiff's case.

For these reasons the application dated 22nd December 2006 is allowed. It is ordered that leave to amend the plaint in terms of the draft annexed plaint is granted. That draft plaint shall be deemed duly signed and served.

I make no orders as to costs.

Dated and delivered at Meru this 13TH day of JULY, 2007.

W.OUKO

JUDGE