



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Civil Case 6301 of 1990

RULING

1. Land and Environmental Law Division
2. Civil Practice and Procedure
3. Subject of main suit- land LR3543 Kasarani Nairobi
4. Application 29 October 2007

Leave to further amend plaint to enjoin a new party order VIa r 3 and 5 Civil Procedure Rules.

5. Application opposed: Leave to enjoin party and not amended.
6. Held:
 - i) Application ought to have filed for leave to enjoying party under order 1 Civil Procedure Rules.
7. Case law.
8. Advocate

N. Marube holding brief for P.M. Wamae & Co. Advocates for the plaintiff/applicant – present
 D.P. Kinyanjui & Co. Advocates for the defendant/Respondent - present

GITHURAI TINGANGA CO. LTD.....PLAINTIFF

VERSUS

STEPHEN KIMANIDEFENDANT

I: Civil Practice and Procedure

1. The applicant plaintiff has filed this application dated the 29 October 2001 under Order VIA rules 3 and 5 Civil Procedure Rules for leave “to further amend the plaint to enjoin M/s Registered Trustees of Githurai nursery School as Co-plaintiffs.” “That the annexed awarded plaint be deemed to be duly filed”.
2. This application was opposed by the said respondent. He states that the application should have

been brought under Order 1 Civil Procedure Rules to enjoin a party to the suit. There after the plaint would be amended as a matter of course.

3. I would agree with the respondent and would accordingly hold that the application of 29 October 2007 be struck out. Leave to bring appropriate application be duly made. I award costs at the respondents.

Dated this 20th day of November 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

N. Marube holding brief for P.M. Wamae & Co. Advocates for the plaintiff/applicant – present

D.P. Kinyanjui & Co. Advocates for the defendant/Respondent - present