

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Civil Case 69 of 2005

THETU MWANGI MIGWI.....PLAINTIFF

VERSUS

JAMES MUNENE NDUBI.....1ST DEFENDANT

HILLARY MUNENE KAMAU.....2ND DEFENDANT

RULING

Application dated 28/11/2006 seeks leave to amend the defence according to draft annexed. The application is based on the ground that suit was filed out of time and that although Notice of Raise Preliminary Objection was indicated there was no indication of the nature of Preliminary Objection to be raised.

I have examined the draft amendment and except the nature of the sections of law there are no facts to indicate the period of time that it is late. I have read grounds of opposition and I am of the view in matters of land a hearing is necessary to prove that suit is filed out of time.

I therefore dismiss the application with costs to the Respondent.

Dated this 6th November, 2007.

J. N. KHAMINWA

JUDGE