

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

Civil Case 235 of 2000

KIBIWOTT TANUI:.....PLAINTIFF

VERSUS

LAWRENCE PANYAKOO:.....DEFENDANT

RULING

The Plaintiff filed an application for leave to file the plaint dated 25th September, 2000. In response thereto, the Defendant filed a Replying affidavit sworn on 6th June, 2006.

At the hearing, the plaintiff's Counsel took issue with the said Replying Affidavit and raised some preliminary objections as to its validity. He stated:-

- That case Number has been amended without leave of the court.
- That the date in paragraph 2 of the affidavit has been amended in claim without leave.
- that the application on record has never been served on the Petitioner.

I have considered the Preliminary issues raised. In my view, the objections raised relate to typographical errors which the Defendant has tried to correct by hand written amendments. Strictly, the Plaintiff is right that any amendments of any pleading or otherwise ought to be with the leave of the Court.

Be that as it may, the so-called amendments are truly corrections of typographical errors. They do not change the substance or facts. There can be no dispute regarding the case number and the date of the application by the Plaintiff. These are not material to the matters in dispute. They are not facts in the case. They are mere figures relating to the pleadings.

I see nothing wrong for a party to correct the number of the case by hand. The court Registry could also do it as matter of course. As regards the date of the application the Defendant changed the number 4 in 2004 to 5, to read 2005. This is the correct date.

In exercise of this court's inherent jurisdiction, I hereby allow the correction of the said case number and date and they are deemed as duly corrected. The objections raised herein are frivolous and vexatious and ought not be raised particularly when the party raising it, is before the court seeking the court's exercise of its discretion to allow amendment of a pleading, in this case the plaint.

The objections are hereby dismissed with costs to the Defendant.

DATED AND DELIVERED AT ELDORET ON THIS 13TH DAY OF JULY 2006.

M.K. IBRAHIM

JUDGE