

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

Civil Case 158 of 2004

ELECTRO AIR SYSTEMS LIMITED.....PLAINTIFF

VERSUS

JOE KIMANI NGACHA1ST DEFENDANT

MARY WANJIRU KIMANI.....2ND DEFENDANT

RULING

The plaintiff by chamber summons brought under Order 1 Rule 10 and Order 6 A Rules 3 and 5 of the Civil Procedure Rules and Section 100 of the Civil Procedure Act seeks an order that leave be granted to join **Jipsy Civil and Building Contractors Limited** as a defendant and to amend the plaint accordingly.

The application is anchored on the grounds that; the plaintiff has been dealing with the 1st defendant as a partner in the firm of **Jipsy Civil and Building Contractors**; the plaintiff carried out same work for and supplied materials to **Jipsy Civil and Building Contracts**; the plaintiff has now established that **Jipsy Civil and Building Contractors** ceased to operate as a business on 27th July 1999 and a company by that name was incorporated on 18th August 1999. The plaintiff therefore submitted that it is necessary to join **Jipsy Civil and Building Contractors Limited** in this suit in order that the real question is controversy between the parties can be determined.

The application, although served upon the other parties was not opposed.

In view of the uncontroverted submissions by the plaintiff the court is of the view that the leave sought by the plaintiff should be granted for it is clear that the amendment sought would assist the determination of the real question in controversy.

The plaintiff is granted the following orders:

- (1) The plaintiff granted leave to join Jipsy Civil and Building Contractors Limited as a defendant.**
- (2) The plaintiff shall file the amended plaint within 14 days from todays date.**
- (3) The plaintiff shall serve Jipsy Civil and Building Contractors Limited with an amended summons and the amended defence shall be served upon the defendants and also on Jipsy Civil and Building Contractors Limited.**
- (4) The cost s of the chamber summons dated 28th April 2006 shall be in the cause.**

MARY KASANGO

JUDGE

Dated and delivered this 10th July 2006.

MARY KASANGO

JUDGE