



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**  
**Civil Case 275 of 2000**

**FUELEX KENYA LIMITED ..... PLAINTIFF/APPLICANT**  
**-VERSUS**

**KENNEDY TITUS OMELEPU OMASETE t/a**  
**KENWILL FREIGHTERS ..... DEFENDANTS/RESPONDENT**

**RULING**

This is a Notice of Motion dated 1st April 2004 purported to have been brought under Order VIA Rules 3 and 5 of the Civil Procedure Rules and section 3 and 3A of the Civil Procedure Act (Cap.21). It seeks for orders that –

- 1. Leave be granted to the plaintiff to amend its plaint dated 4th December 2000 and filed on 5th December 2000 as per the draft amended plaint annexed.**
- 2. The draft amended plaint annexed be deemed to be duly filed upon payment of the requisite court fees.**
- 3. The costs of the application be provided for and ordered to be costs in the cause.**

The application has grounds on its face and is supported by the affidavit of Edwin Muriu, the General Manager of the plaintiff/applicant, sworn on 1st April 2004.

The application is not opposed as no documents were filed by the respondents in reply to the application. On the hearing date for the application nobody appeared for the respondent. The application was served on the respondent's counsel Messrs. Ocharo Kebira and Company Advocates.

This court has powers under Order VIA rule 3 of the Civil Procedure Rules to allow a party to amend its pleadings at any stage of the proceedings. The suit has not yet been set down for hearing. The application has not been opposed. The amendment is necessary for determination of issues between the parties.

I allow the application and order that the plaintiff/applicant files the amended plaint within 14 days from the date hereof. The applicant should serve the filed amended plaint in accordance with the Civil Procedure Act (Cap.21). Costs will be in the cause.

**Dated and delivered at Eldoret this 12th day of July 2005.**

**George Dulu**

**Ag. Judge**

**In the Presence of: Mr. Kariuki for plaintiff/applicant**