

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL SUIT NO. 692 OF 1997

1. ABDULHAMIS ADAHMED SALYANI

2. ABDULMAJID AHMED SALYANI

3. AYUB AHMED SALYANI

4. ABDULHALIM AHMED SALYANI.....PLAINTIFFS

=V E R S U S=

RUKIYABHAI MOHAMED SALEH.....DEFENDANT

RULING

The Defendant prays that she be given leave to amend her defence. The Plaintiff was filed on 27/1/94. Up to recently 2003 very little activity has taken place. On 26/5/2003 Defendant appointed fresh advocates who immediately sought order to transfer the suit to lower court which was resisted by the Plaintiff. The Plaintiff has never brought this suit to hearing for the last 10 years. He is resisting the application to amend the defence which was filed on 17/7/1997 which includes a counter-claim. Amendments are normally allowed at any time of the pleadings.

In this case there has been much delay occasioned by both parties. I do not see any prejudice that would be occasioned by the proposed amendment. The application is allowed. The Amended Defence shall be filed within the next 7 days from to-day. The Plaintiff shall file reply and defence to counter-claim within

14 days of service. Costs in the cause.

Dated at Mombasa this 26th day of February, 2004.

JOYCE KHAMINWA

J U D G E

26/2/04

Khaminwa, J.

Chege – Clerk

Ruling read in presence of Mr. Odiaga – Defendant's Advocate

Mr. Nyalwala – for Plaintiffs