

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

MISC. CIVIL APPL. NO.63 OF 2000

ANGLICAN CHURCH OF KENYA
(UPPER COAST DIOCESE)

AND IDIME ENTERPRISES APPLICANTS

VERSUS

ADDAH NYAMBOK RESPONDENT

RULING

This application seeks to amend Notice of Motion filed and dated 20th April, 2000 in the proceedings of Judicial Review. The proposed amendments relate to the heading of the Notice of Motion. This amendment relates only to formal parts of the Motion and I see no purpose of denying the order as I am urged to do by counsel for interested party. No prejudice will be occasioned. In the case of Civil Appeal No.95 of 1990 in the Court of Appeal that court had to say of want of form in a similar application –

“Lastly we respectively agree with the view of the judge that there was want of form in the heading of the application and that it should have been instituted as R. v. Resident Magistrate’s ex-parte the Heirs of Peter Francis Gomes. This irregularity, however, was not itself sufficient to deprive the judge of this discretion to grant the orders sought.”

I do not see any provision under Order 53 Civil Procedure Rules that prohibits amendments of Motions filed hereunder. I therefore grant the orders sought. The parties served shall be at liberty to file affidavits in reply to the amendments if they see it fit. Costs shall be in the cause.

Dated at Mombasa this 20th Day of March, 2002.

J. KHAMINWA

COMMISSIONER OF ASSIZE

Mr. Wameyo for Respondent.

Mr. Wamti Ndegwa, - Not present.

J. KHAMINWA

COMMISSIONER OF ASSIZE