



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MIGORI

ELC CASE NO. 6 OF 2020

**THADAYO AUMA ABUOGI.....PLAINTIFFS**

**VERSUS**

**KAREN MARGARET JUMA.....DEFENDANT**

**RULING**

1. By a Notice of motion dated 30<sup>th</sup> May 2020 and duly filed on the even date under section 1 (A&B), 3,3A & 63 ( e) of the Civil Procedure Act & Order 51 Rule 1 of the Civil Procedure Rules 2010 and Order 8 Rule 3 (1) and Order 49 Rule 7 (1) (B) (VI) of the Civil Procedure Rules 2010 and Article 159 of the Constitution of Kenya 2010 and all other enabling Provisions of the law,(the application herein). The plaintiff **THADAYO AUMA ABUOGI** who initially appeared in person and now represented by Messrs Kisia and company Advocates is seeking orders infra;-

**a. That leave be granted to the applicant/plaintiff to amend his originating summons filed herein and to enjoin Peter Tambo Mugoya as 2<sup>nd</sup> Defendant/Respondent.**

**b. That the amended originating summons copy here with annexed herein be deemed as duly filed upon payment of the Court requisite fees.**

**c. Costs of this application be in the cause.**

2. The application is premised on the plaintiff's supporting affidavit sworn on the even date and the draft annexed to the originating summons and copy of green card/register in regard to the suit land, **LR NO. SUNA EAST/WASWETA 1/11954**. The same is also premised on grounds (a) to (f) set out on its face and noted accordingly.

3. The defendant was duly served. She is aware of the application. She had the liberty to appear or not to appear herein as observed by the Court of Appeal in **Ogada =vs= Mollin (2002) KLR 620**.

4. The defendant has appeared in person. She has no objection to the orders sought in the application.

5. This court is conscious of joinder and now joinder of the parties to a suit as per Order 1 Rule 9 of the Civil Procedure Rules, 2010 and the Black's Law Dictionary 10<sup>th</sup> Edition at page 965 on the definition of "joinder of parties." owever, none of the parties complied thus, precipitating this ruling; See Order 51 Rule 16 of the Civil Procedure Rules, 2010.

6. I find the application sound and unopposed. Its merited in the circumstances.

7. Wherefore, the application dated 30<sup>th</sup> May 2020 is hereby allowed in terms of orders 1,2 and 3 sought therein.

Orders accordingly.

**DELIVERED, DATED AND SIGNED AT MIGORI THIS 23<sup>RD</sup> DAY OF MARCH, 2021**

**G.M.A. ONGONDO**

**JUDGE**

**In presence of :-**

Tom Maurice - Court assistant

Mr. Kipngetich holding brief for Kisia for the plaintiff