



REPUBLIC OF KENYA



**Wafula & another v Lokere (Environment and Land Case 13 of 2022)
[2025] KEELC 6033 (KLR) (17 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6033 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT AND LAND CASE 13 OF 2022**

CK NZILI, J

SEPTEMBER 17, 2025

BETWEEN

MARY NASIMIYU WAFULA 1ST PLAINTIFF

HUMPHREY MUTOR WAFULA 2ND PLAINTIFF

AND

RICHARD LODIA LOKERE DEFENDANT

RULING

1. What is before the court is an application dated 26/6/2025, by the defendants, seeking for leave to amend their statement of defence to introduce a counterclaim. The reasons are on the face of the application and in a supporting affidavit sworn by Richard Lodia Lokere, on 26/6/2025. The draft is attached as annexure RLL-1.
2. The applicant relies on written submissions dated 23/7/2025, that the application meets the threshold set in *City Clock Ltd v County Clock (K) Ltd & Another Nairobi HCCC No. 6 of 2016*.
3. Amendment of pleadings with or without leave of court is governed by Order 8 Rule 1 of the Civil Procedure Rules. The court has broad discretion to allow such amendments at any stage of the proceedings, provided they are necessary for determining the real questions in controversy and do not cause prejudice to the opposite party, which cannot be compensated by way of damages.
4. The general principles to consider include ensuring that the substratum and merits of the case are addressed, to avoid multiplicity of suits, if it is in good faith, to correct errors or mistakes in the pleading, to join or drop parties, introduce a counterclaim, or update certain facts or issues relevant to the suit.
5. The applicants invoke the principle that the proposed amendments are crucial for the fair and just adjudication of the suit as they will introduce a counterclaim and clarify factual assertions that were omitted at the time of filing the statement of defence.



6. The court has looked at the draft intended amended defence and counterclaim, the defence dated 17/6/2022 and the plaint dated 4/5/2022. The suit is yet to commence hearing. The intended amendments, in my view, seek to buttress the defendants' defence of bona fide and or inherent purchasers for value and or on the concept of constructive trust, which will enable the court to completely and effectually determine all the issues in controversy.
7. The respondents have not expressed any prejudice to be suffered or indicated that the amendments are unnecessary, a delaying tactic or out to conflate the issues before the court.
8. Consequently, the application is allowed with no costs to the plaintiffs. The draft defence and counterclaim to be filed and served within 14 days from the date hereof.
9. Orders accordingly.

RULING DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 17TH DAY OF SEPTEMBER 2025.

In the presence of:

Court Assistant - Dennis

Chebet for defendants present

Munialo for the plaintiff present

HON. C.K. NZILI

JUDGE, ELC KITALE.

