

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

CIVIL SUIT NO.22 OF 2011

WILBERFORCE B. TENGE.....PLAINTIFF

VERSUS

JOHNTHAN MALEMO.....1ST DEFENDANT

ATTORNEY GENERAL.....2ND DEFENDANT

RULING

The applicant prays for leave to amend his plaint. He says that he intends to amend the plaint and remove the issue of fraud and substitute it with one issue of illegality. He argues that the amendment shall assist in determination of the real issues. He argues that the defendant shall not suffer any prejudice from the orders sought.

The application is opposed by the respondent. It was argued that the application was to defeat the defence filed on 15/2/2011. Further that through the intended amendment, the plaintiff is filing an appeal or a Judicial Review. That this is an abuse of the process of the Court the decision being complained of being made in the year 2004. That the applicant are guilty of laches.

This application is unmerited. The decision being challenged was made in 2004 over 10 years ago. The delay is inordinate.

The application is dismissed with costs to the respondent.

DATED at BUNGOMA this 8th day of July, 2015

S. MUKUNYA

JUDGE