



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
ELC CASE NO. 7 OF 2013

SEBASTIAN NJOGU NJAGI1ST PLAINTIFF

CATHERINE WANJIRU NJOGU2ND PLAINTIFF

VERSUS

JANEFFER WAKUTHII MUNYI1ST DEFENDANT

TERESSA WAMBUI MURIITHI2ND DEFENDANT

JAMES WAIYAKI3RD DEFENDANT

RULING

This is in respect to the plaintiffs/applicants' application dated 2nd September, 2013 seeking leave to amend the plaint herein in terms of the draft amended plaint which is annexed thereto. The same is supported by the affidavit of CATHERINE WANJIRU NJOGU the 2nd plaintiff herein.

The application is not opposed but there is a Notice of Preliminary Objection dated 15th October, 2013 to the effect that the said application is frivolous, vexatious, bad in law and an abuse of the Court process and further, that the same does not comply with the provisions of **Order 1 Rule 13 or Order 4 Rule 2 and 3 of the Civil Procedure Rules.**

When the matter came up before me on 14th October, 2014, Mr. Munene holding brief for Ms. Munene for the Plaintiffs/applicants urged me to grant the orders sought as the same was not opposed.

I have considered the application to amend. The same is un-opposed and the Preliminary Objection raised was never prosecuted and even if it was, I see nothing in the application that amounts to an abuse of the Court process or is frivolous, vexatious or bad in law. As a general rule, the Court has powers to allow amendment of pleadings so as to enable the real issues in dispute to be litigated. Under the **Civil Procedure Rules**, the parties can amend their pleadings with leave of the Court at any time before judgment and indeed even after trial has commenced. The amendment sought herein is to enable the applicants ***“properly articulate their claim before this Court”***. There would be no good reason to disallow a party amend his pleadings more so at this early stage where the trial is yet to commence.

Accordingly I allow the Notice of Motion dated 2nd September, 2013 seeking an amendment to the plaint. The draft amended plaint shall be deemed as duly filed upon payment of the requisite fees. The

defendants are at liberty to amend their defence if they so wish within 15 days of service upon them of the amended plaint.

Costs in the cause.

B.N. OLAO

JUDGE

3RD DECEMBER, 2014

3/12/2014

Before

B.N. Olao – Judge

Mwangi – CC

Ms Kiragu for Ms Munene for Plaintiff – present

Mr. Ndegwa for Mr. Mwai for Defendant – present

COURT: Ruling delivered in open Court this 3rd day of December, 2014

Ms Kiragu for Ms Munene for Plaintiff present

Mr. Ndegwa for Mr. Mwai for Defendant present.

B.N. OLAO

JUDGE

3RD DECEMBER, 2014