



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

Civil Suit 29 of 2009

**RACHEL MWIHAKI GATABAKI ..... APPLICANT**

**VERSUS**

**NJEHU GATABAKI..... RESPONDENT**

**SURAYA PROPERTY GROUP LTD.....INTERESTED PARTY**

**R U L I N G**

When this matter came for hearing on 1<sup>st</sup> October, 2012 Ms. Thongori for the Applicant sought leave of the court to correct some typographical errors in respect of property LR No. 5890/3 for that number to read LR No. 5980/3. Subsequently, the said number was altered to LR No. 28223/2. Mr. Muriuki for the Respondent opposed the application on the grounds, *inter alia*, that it was not a typing error as alleged by Ms. Thongori and that these numbers described different plots in the names of different persons. In reply, Ms. Thongori reiterated that they were typing errors as she was the one who typed the pleadings.

After considering the application for the amendments and the arguments of counsel, I take the view that if the numbers are wrongly typed, and the applicant proceeds with the wrong numbers, she will not get justice. The constitution is clear that in exercising judicial authority, the courts and tribunals are to be guided by, among others, the principle that justice should be administered without undue regard to procedural technicalities. In order to access justice, it is fair and proper for the Applicant to bring before the court what she considers to be the true facts of the matter. If she does not do so, then her application will not truly embody her case as she perceives it. Needless to say, she will be driven away from the judgment seat.

On account of the foregoing, I am satisfied that the application for amendment is meritorious and it is accordingly granted as prayed. In the same breath, the Respondent will be at liberty to file a replying affidavit within 14 days of service of the amended Originating Summons.

Orders accordingly.

**DATED and DELIVERED at NAIROBI this 3<sup>rd</sup> day of October, 2012**

**L. NJAGI  
JUDGE**