



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 10 OF 2020

**FRIDAH KANJA MUTHAURA (Suing as the personal representative of the Estate of
MUNENE MUGO NCACU (DECEASED)).....PLAINTIFF**

VERSUS

ELIAS MICHENI MUGO.....1ST DEFENDANT

BERNARD MURIITHI MUGO.....2ND DEFENDANT

RULING

1. The application is dated 23rd October, 2012 and the applicant states that they have brought it to court under Order 8 Rules 3(1), (2), (3), 5(1) and 7(1)(2) and (3) of the Civil Procedure Rules 2010. It seeks the following orders:

1. THAT the defendants/applicants be granted leave to amend their 1st and 2nd defendants' statement of defence out of time in terms of the annexed draft amended 1st and 2nd defendants' statement of defence.
2. THAT upon granting prayer No. 1 hereinabove, the plaintiff/respondent be at liberty to file an amended plaintiff and/or file a reply to the amended 1st and 2nd defendants' statement of defence.
3. THAT costs of this application be in the cause.

2. The application is supported by the affidavit of Elias Micheni Mugo, the 1st defendant and has the following grounds;

1. The defendants/applicants filed their defence in this case on 15/10/2020.
2. It has come to the knowledge of the defendants/applicants that there exists a minor typing error in **paragraph 21** of the 1st and 2nd defendants' statement of defence in that the correct year in the said paragraph should be **January 2009** and **not January 2008**.
3. No prejudice will be occasioned to the plaintiff/respondent if this application is allowed because she will be at liberty to amend her plaintiff and/or file a reply to the amended 1st and 2nd defendants' statement of defence.
4. It is only just and fair that the application be allowed.

3. On 4th November, 2020, the parties asked the court to adopt their consent dated 27th October, as an order of the court. The consent is in the following terms;

TO THE DEPUTY REGISTRAR

ENVIRONMENT AND LAND COURT

CHUKA LAW COURT

CHUKA

We shall be grateful if you kindly record the following consent.

“BY CONSENT”

1. The Defendants' Application dated 23rd October, 2020 be and is hereby allowed with no Orders as to Costs.
2. The Defendants do file and serve the Amended Defence within 7 days.
3. The Plaintiff to file and serve a reply to Amended Defence within 3 days of service of the Amended Defence.

DATED at NAIROBI this 27th day of October, 2020.

M'NJAU & MAGETO NYAMU NYAGA

ADVOCATE FOR THE PLAINTIFF ADVOCATE FOR THE DEFENDANT

4. The consent is signed by the advocates representing the parties.
5. Their consent is adopted as an order of this court.

Delivered in open Court at Chuka this 17th day of November, 2020 in the presence of;

CA: Ndegwa

Mark Murithi h/b Nyamu Nyaga for the defendant.

Mageto for the plaintiff.

P. M. NJORGE,

JUDGE.