



**Ciamwonge (Suing as the Legal Representative of the Estate of the
Late Mugendi Runguma) v Laini & 7 others (Land Case E008 of 2024)
[2025] KEELC 6437 (KLR) (26 September 2025) (Ruling)**

Neutral citation: [2025] KEELC 6437 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
LAND CASE E008 OF 2024
BM EBOSO, J
SEPTEMBER 26, 2025**

BETWEEN

**PENASIA CIAMWONGE (SUING AS THE LEGAL REPRESENTATIVE OF THE
ESTATE OF THE LATE MUGENDI RUNGUMA) PLAINTIFF**

AND

**PETER JAMLICK LAINI 1ST DEFENDANT
SARAH KAARI HERODIAH 2ND DEFENDANT
PATRICK NANUA RAINI 3RD DEFENDANT
IDAH MUTHONI NYAMU 4TH DEFENDANT
JANE GACHUNKU MBUNGU 5TH DEFENDANT
GEOFFREY NJERU SILAS 6TH DEFENDANT
LAND REGISTRAR CHUKA 7TH DEFENDANT
THE ATTORNEY GENERAL 8TH DEFENDANT**

RULING

1. What falls for determination in this ruling is the plaintiff's notice of motion dated 19/5/2025, through which she seeks leave to amend her plaint as per the exhibited draft. The application is supported by her affidavit, sworn on 19/5/2025, and submissions filed by M/s A M Gitonga & Co. Advocates. The applicant's case is that the plaint dated 18/7/2024 does not clearly reflect the intended issues for determination, in that her advocate on record mistakenly captured the suit parcel as Ndagani/Karingani/140 instead of Karingani/Ndagani/140. Additionally, details such as the address for service were incorrectly captured in the pleadings, hence the need to amend the plaint.



2. The applicant contends that, noting that this matter is yet to be set down for hearing, the amendments sought are not prejudicial to the respondents as they will have the opportunity to file their respective amended responses to the suit. She states that the above typographical errors were inadvertent mistakes by her counsel, and urges that the application be allowed.
3. The respondents fervently opposed the application through a replying affidavit sworn on 22/7/2025 by Idah Muthoni Nyamu. She deposed that the application was a clear attempt by the applicant to sneak in a new cause of action that did not form part of the initial pleadings. According to them, allowing the application would be prejudicial to them, contending that the amendments sought were not clerical in nature but were geared towards introducing a new cause of action. It is contended that the applicant has not satisfactorily demonstrated the cause of the delay in bringing this suit to court.
4. The respondents further argue that should the court allow the amendments, it will lead to undue delay in disposing the suit, hence occasioning injustice to them. The respondents argue that they have already filed their defences, and that allowing the amendment will prejudice them. They term the application frivolous and an abuse of the court process. They urge the court to dismiss the application with costs.
5. The respondents argue that amendment would not be allowed if it introduces a new cause of action or if it causes undue prejudice to the opposing party. They contend that the application is misconceived, frivolous and an abuse of the court process and ought to be dismissed with costs.
6. I have considered the application, the response to the application, and the parties' respective submissions. I have also considered the relevant legal frameworks and jurisprudence. The question that falls for determination in the application is whether the application meets the criteria upon which this court exercises jurisdiction to grant an order for leave to amend pleadings. I will be brief in my analysis and determination.
7. The law on amendment of pleadings is well settled. Order 8 rule 3 of the Civil Procedure Rules 2010 provides for amendment of pleadings with leave of the court as follows:
 - “(1) Subject to Order 1, rules 9 and 10, Order 24 rules 3,4,5 and 6 and the following provisions of this rule, the court may at any stage of the proceedings, on such terms as to costs or otherwise as may be just and in such manner as it may direct, allow any party to amend his pleadings.”
8. The Court of Appeal outlined the relevant guiding principle on amendment of pleadings in the case of *Central Kenya Ltd v Trust Bank Ltd & 5 others* [2000] eKLR as follows:
 - “The policy of the law is that amendments to pleadings are to be freely allowed unless by allowing them the opposite side would be prejudiced or suffer injustice which cannot properly be compensated for in costs.”
9. The plea for leave to amend the plaint has been brought before pre-trial. Order 8 rule 3 of the Civil Procedure Rules stipulates that the court may at any stage of the proceedings, on such terms as to costs or otherwise as may be just and in such manner as it may direct, allow any party to amend his pleadings.
10. In opposing the plea for leave to amend the plaint, the 4th and 5th defendants contend that the intended amendments will introduce a new cause of action. They also contend that there was unexplained inordinate delay in bringing the application. I have examined the draft amended plaint. No new cause of action is disclosed in the draft amended plaint. Indeed, the respondents did not



identify the alleged new cause of action. Secondly, trial hearing has not commenced. The respondents will have the opportunity to amend their pleadings and file appropriate trial bundles and witness statements. Thirdly, this suit was filed in July last year. The alleged inordinate delay has not been identified by pointing out the precise time when the estate became aware of the alleged fraud. I do not think there has been delay that would justify denial of the opportunity to amend pleadings prior to commencement of trial hearing.

11. For the above reasons, the finding of the court is that the application under consideration meets the criteria for granting leave to amend pleadings. Consequently, the plaintiff is granted leave to file an amended plaint and serve it within 10 days.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 26TH DAY OF SEPTEMBER, 2025.

B M EBOSO [MR]

JUDGE

In the Presence of:

Ms. Gitonga for the Plaintiff.

1st Defendant - Absent

Ms. Mbugua for 2nd Defendant

3rd Defendant - Absent

Ms. Bett for 4th and 5th Defendants.

Court Assistant – Mr. Mwangi

