

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

ENVIRONMENT & LAND COURT

ELC SUIT NO. 308 OF 2010

TITUS GETHI NDEGWA.....PLAINTIFF

=VERSUS=

GICHUHI NDIRANGU MACHARIA.....DEFENDANT

RULING

1. The defendant/applicant filed a notice of motion on 1st November seeking review of the orders of Lady Justice Gacheru made on 31st August 2017. The applicant contends that he has filed an application for leave to amend his defence and that the application cannot be heard unless the orders of 31st August 2017 are set aside.

2. In the ruling of 31st August 2017, the judge directed the parties to cease filing unnecessary interlocutory applications but instead go for the main hearing.

3. The applicant's application was opposed by the plaintiff/respondent based on a replying affidavit sworn on 18th January 2019. The respondent contends that this application is an abuse of the process of the court and that it is only meant to delay the finalization of this case. The respondent further contends that the application does not meet the threshold of review under Order 45 of the Civil Procedure Rules.

4. I have considered the applicant's application as well as the opposition to the same by the respondent. I have also considered the submissions by the parties. The only issue for determination is whether the applicant has established grounds for review. I have looked at the ruling which is sought to be reviewed. The ruling directed the parties to cease filing of unnecessary interlocutory applications. The court did not stop parties from filing any application. What was stopped are unnecessary applications. An application for leave to amend cannot be categorized as being unnecessary. I therefore find no merit in this application which is hereby dismissed with costs to the respondent.

It is so ordered.

Dated, Signed and delivered at Nairobi on this 21st day of March 2019.

E.O.OBAGA

JUDGE

In the presence of;

Mr. Waiganjo for Defendant/Applicant

M/s Aisha for Plaintiff/Respondent

Court Assistant: Hilda

E.O.OBAGA

JUDGE