



**Mbogo v Samuel & another (Environment and Land Appeal
E018 of 2025) [2026] KEELC 788 (KLR) (11 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 788 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND APPEAL E018 OF 2025
BM EBOSO, J
FEBRUARY 11, 2026**

BETWEEN

PATRICK RUGENDO MBOGO APPELLANT

AND

TARTISIO NGAJI SAMUEL 1ST RESPONDENT

BEATRICE GAAJI NDERI 2ND RESPONDENT

RULING

1. The appellant's application dated 16/12/2025 is before court for hearing today. The appellant is not ready for hearing and has applied for an adjournment. He has also orally applied for leave to amend the application.
2. The respondents have submitted that an application is not a proper pleading for amendment. They have also asked that provision be made for today's costs.
3. The court has considered the two-pronged oral plea and the parties' brief submissions. Jurisdiction to grant leave to a party to amend interlocutory pleadings is donated by Order 8 rule 5(1) of the Civil Procedure Rules which provides as follows: -

“For the purpose of determining the real question in controversy between the parties, or correcting any defect or any error in any proceedings, the court may either of its own motion or on the application of any party order any document to be amended in such manner as it directs and on such terms as to costs or otherwise as are just”.
4. The framers of the above rule had in mind both the principal pleadings in a suit and other pleadings such as interlocutory and post-disposal applications. That is why the words used are “any document”. The court's reading of Order 8 (5) (1) is that an application can properly be amended.



5. No proper basis has been laid to warrant a denial of leave to amend the application at this point. The view of the court is that the respondent can properly be indemnified through an award of today's costs.
6. For the above reasons, the oral plea for leave to amend the application dated 16/12/2025 is granted. Hearing is adjourned on the ground that the appellant intends to amend the application. The appellant/applicant shall pay the respondent's advocate today's costs, assessed at Kshs 3000/=. The same is to be paid within 30 days.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 11TH DAY OF FEBRUARY, 2026.

B M EBOSO [MR]

ELC JUDGE

In the presence of:

Mr Gikundi Anampiu for the Respondent.

Ms Musili for the Appellant/Applicant.

Court Assistant – Mr. E. Tupet/Ms Nelly

