



**Falcon Properties Limited v Langat (Environment and Land Case Civil Suit 505 of 2012) [2026] KEELC 1452 (KLR) (12 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1452 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT AND LAND CASE CIVIL SUIT 505 OF 2012**

**CK YANO, J**

**MARCH 12, 2026**

**BETWEEN**

**FALCON PROPERTIES LIMITED ..... APPLICANT**

**AND**

**DAVID SONGOK LANGAT ..... RESPONDENT**

**RULING**

1. The application for consideration is the Notice of motion dated 28.11.2025 by the Plaintiff/Applicant seeking leave to amend the plaint in accordance with the draft amended Annexed plaint, and upon such leave being granted, the draft amended plaint be deemed properly filed and served subject to payment of court fees.
2. The application is brought pursuant to the provisions of Article 50(1), 159(2)(d) of *the Constitution*, 2010, sections 1A, 3, & 3A of the *Civil Procedure Act*, Orders 1 rule 10(2), 8 Rule 5 and 51 Rule 1 of the Civil Procedure Rules and all enabling provisions of the law.
3. The application is based on the 11 grounds set thereunder and supported by the affidavit of IQBAL SINGH RAI sworn on 28.11.2025 in which he deponed that the plaintiff filed this suit against the Defendants on the basis of the information pointing to acts of trespass by the Defendant who filed a defence, but did not file any documents or witness statement. That it was not until after the matter had been confirmed for hearing that the Defendant filed witness statement together with his list and copies of documents at the time.
4. It was averred that during the preparation for the hearing and upon perusal of the Defendant's documents which point to the fact that there might be in existence two titles registered in favour of the parties over the properties in issue (Eldoret Municipality Block 8/338), and therefore it has become necessary for the plaintiff to amend its plaint.



5. Relying on advise, the deponent stated that the amendments are necessary in order for the plaintiff to bring before court the actual facts and all the crucial parties so that the court can make a fair determination of the matter. That the parties sought to be introduced are the custodians of the records regarding survey and proprietorship of the subject parcel of land and are better placed to shed light on the survey, issuance of official documents and registration done over the subject property.
6. It is further averred that the amendments sought are in line with the cause of action and are necessary for the court to consider, deal and properly determine the real issues in controversy and make orders and/or determination that can be given effect and/or effected legally. That granting the orders sought will not prejudice the Defendant in any way as the hearing is yet to take off and both parties will have an opportunity to present their case with all facts and documents on record. That the intended parties to be introduced into the suit will equally have an opportunity to defend themselves by filing their documents.
7. It is also averred that the court has power to grant the orders sought in the best interest of justice and in the spirit of speedy disposal of the matter without undue regard to technicalities. That the application has been brought promptly and in good faith.
8. The application is opposed by the Defendant/Respondent through a replying affidavit sworn by the Defendant on 18<sup>th</sup> December, 2025 wherein he deponed that the application has been brought in bad faith and has not been made timeously. That the application has been brought to occasion further delay in concluding this matter as it is now 13 years since the same was filed and the plaintiff is yet to begin the prosecution of its case.
9. The defendant denied that it is after he filed his witness statements and documents that the plaintiff realized that there are other crucial parties who were left out. He pointed out that his witness statements and documents were filed on 16.11.2021 and served upon the plaintiff on 22.11.2021, and the plaintiff filed a further witness statement on 24.11.2021 and then filed a further list of witnesses on 7.5.2024 and served upon the defendant's advocate on 14.06.2024.
10. It is the defendant's contention that even though the power to amend can be exercised by the court at any stage of the proceedings, the plaintiff ought not be allowed to reframe its case by an amendment of the plaint to fill in gaps in its case, adding that the plaintiff is keen on amending its plaint to introduce new parties and new issues sixteen years after the suit was instituted.
11. The defendant averred that the plaintiff all along knew who the custodians of records regarding survey and proprietorship of the subject parcel of land were but chose not to include them as parties. That the intended amendments of introducing new parties and new facts are being done too late in the day. Relying on advice, the defendant argued that equity aids the vigilant, not those who sleep on their rights. That the application as presented is a wanton abuse of the court process, scandalous, frivolous, vexatious and intended to embarrass the court and legal process.
12. The defendant averred that he stands to suffer great prejudice in the event the amendments are allowed as the intended amendments have been caught up by the doctrine of laches. That it is fair, just and in the interest of justice that the application be dismissed with costs.
13. Pursuant to directions given by the court, the application was canvassed by way of written submissions and the parties complied and filed their submissions. The plaintiff/Applicant submissions are dated 16<sup>th</sup> January, 2026 while the Defendant/Respondent's submissions are dated 13<sup>th</sup> February, 2026.



## Analysis and Determination;

14. The court has considered the application, the response and the rival submissions together with the authorities cited. This is an application for amendment of the plaint herein to introduce other defendants, namely, the Chief Land Registrar, County Land Registrar, Director Land Administration and the Attorney General as 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Defendants. In the draft amended plaint which is annexed to the supporting affidavit, the Plaintiff accuses the Defendants either alone or in collusion with others of inter alia, having acted illegally and fraudulently in removing and/or causing the removal and/or destruction of the register and records from the Land Registry in regard to the plaintiff's land, and forging and/or causing the unlawful and illegal preparation of a false register bearing the name of the Defendant/Respondent herein as owner of the plaintiff's land. The plaintiff argues that it was not until the matter had been confirmed for hearing that the Defendant filed witness statement together with his list and copies of documents, and that during the preparation for the hearing, and upon perusal of the laid documents, it occurred that there might be in existence two titles in favour of the parties over the suit property, hence the necessity of the amendment. On his part, the defendant contended that the application has been brought very late in the day and the effect of the intended amendment will prejudice him as the same seeks to introduce new parties and new issues.
15. The courts will normally allow amendments of pleadings at any stage of the proceedings if it can be done without occasioning injustice or prejudice to the other party and on such terms as to costs or otherwise as may be just. Order 8 Rule 3 of the Civil Procedure Rules provides 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 pleading.
  2. Where an application to the court for leave to make an amendment such as mentioned in sub rule (3) and (4) or (5) is made after any relevant period of limitation current at the date of filing the suit has expired the court may nevertheless grant such leave in the circumstances mentioned in any such sub-rule if it thinks just so to do.
  3. An amendment to correct the name of a party may be allowed under sub-rule (2) notwithstanding that it is alleged that the effect of the amendment will be to substitute new party if the court is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause any reasonable doubt as to the identity of other person intending to sue or intended to be sued.
16. The general power to amend pleadings is donated by section 100 of the Civil Procedure Act and is provided for under Order 8 Rule 5 of the Civil Procedure Rules which states as follows: -

“5(1) for the purpose of determining the real question in controversy between the parties, or of correcting any defect or error in any proceedings, the court may either of its 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.

(2) This rule shall not have effect in relation to a judgment or order.”
17. It is clear from the above provisions of law that the court has discretionary power to amend pleadings at any stage before judgment for purposes of determining the real question or issue between the parties. That discretionary power must however be exercised judiciously and not whimsically. It is



also clear that the court may, in its discretion, allow the amendment to correct the name of a party notwithstanding that the effect of such an amendment will be to substitute or add a new party.

18. As already stated, in this case, the plaintiff seeks to amend the plaint to introduce new parties as defendants based on the fact that there may be two titles over the suit property in the names of the parties herein. In my view, the Defendant has not demonstrated what prejudice if nay, he will suffer if the application for amendment is allowed. On the contrary, if such leave to amend is granted, it would allow bringing of the additional defendants to the suit and a multiplicity of suits or legal proceedings avoided. I fail to see what prejudice or injustice could result to the defendant/respondent by allowing the amendments. The trial has not started and the respondent can adequately be compensated by costs.
19. In the case of Eastern Bakery Vs Castalino (1958) EA 461, it was held at page 462 letter c as follows:-

“It will be sufficient, for purposes of the present case to say that amendments to pleadings sought before the hearing should be freely allowed, if they can be made without injustice to the other side and that there is no injustice if the other side can be compensated by costs...”
20. Accordingly, and for the foregoing reasons, it is my finding that the application is merited and I exercise my discretion and allow the same in the following terms:-
  - a. The Notice of motion dated 28.11.2025 is allowed in terms of prayers 1 and 2 thereof.
  - b. The plaintiff is directed to file and serve the amended paint within 14 days of this ruling.
  - c. The defendants to file and serve their defences and/or amended defence, if any, within 14 days of service.
  - d. The costs of the application are awarded to the Defendant/Respondent.
21. Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET ON THIS 12<sup>TH</sup> DAY OF MARCH, 2026 VIDE MICROSOFT TEAMS.**

**HON. C. K. YANO**

**ELC, JUDGE**

In the virtual presence of;

Ms. Kemboi holding brief for Mr. Nyairo for Plaintiff/Applicant.

No appearance for Mr. Momanyi for Defendant/Respondent.

Court Assistant - Laban.

