



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAKURU

CASE No. 247 OF 2014

CALEB ISABOKE NYAMWANGE.....PLAINTIFF

VERSUS

JAMES OGINDA.....1ST DEFENDANT

ABRAHAM BIRUNDU NYANGOTO.....2ND DEFENDANT

DISTRICT LAND REGISTRAR NAKURU.....3RD DEFENDANT

RULING

1. This ruling is in respect of plaintiff's Notice of Motion dated 23rd May 2016. The application seeks the following Orders:

1. Spent.

2. That this honourable court be pleased to grant leave to the plaintiff/applicant to enjoin Annah Kemunto Oginda as a party to this suit.

3. That costs of this application be provided for.

2. The application is supported by a supporting affidavit sworn by the plaintiff on 23rd May 2016 and a supplementary affidavit also sworn by the plaintiff. It is deposed in the affidavits that the 1st defendant passed away on 18th December 2015 and that the proposed 4th defendant was issued with letters of administration in respect of his estate on 26th May 2016. The plaintiff did not know the exact date of the 1st defendant's death until 9th May 2017 when plaintiff's advocates obtained a copy of the letters of administration from the court. It is further deposed in the affidavits that the proposed 4th defendant is currently occupying the suit land known as Nakuru/Molo/Kapsita/467.

3. I have considered the application, which is not opposed, as well as the affidavits. The application is brought under Order 8 rule 3 of the Civil Procedure Rules. It is essentially an application for leave to amend the plaint. The need for amendment is occasioned by the death of the 1st defendant. It also appears that the plaintiff has a claim against the proposed 4th defendant since he deposes in affidavit that the said proposed 4th defendant is occupying the suit land. I see no reason why the plaintiff should not be granted leave to amend the plaint.

4. In view of the foregoing, I make the following orders:

- a) Leave is hereby granted to the plaintiff to amend the plaint herein so as to join Ann Kemunto Oginda to this suit as 4th defendant.
- b) The amended plaint to be as per the draft annexed to the affidavit in support of the application.
- c) The amended plaint to be filed within seven (7) days from the date of delivery of this ruling.
- d) Costs of Notice of Motion dated 23rd May 2016 shall be in the cause.

5. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 17th day of May 2018.

D. O. OHUNGO

JUDGE

In the presence of:

Mr. Gatonye holding brief for Mr. Nyambegera for plaintiff/applicant

No appearance for defendants

Court Assistant: Gichaba