



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 265 OF 2017

FORMERLY MERU ELC. 79 OF 2014

NJAGI KANAMPIU (SUING AS NEXT FRIEND

JOSEPH KTHENYA KANAMPIU).....PLAINTIFF/APPLICANT

VERSUS

KELLEN NCHUNGUNI RIUNGU & 2 OTHERS.....DEFENDANTS

RULING

1. This application is dated **10th May, 2018** and seeks the following orders:

1. That the court be pleased to grant the plaintiff/applicant leave to file an amended plaint as per the annexed draft.
2. That costs be in the cause.

2. The application has the following grounds:

- a) The ruling of the court dated **19th March, 2018** necessitates amendment of the plaint.
- b) The status of the plaintiff effectively changed after the ruling.
- c) The person on whose behalf the suit was instituted has become a witness to the defendant.
- d) Amendment is necessary for the court to effectively determine the issues in question.

3. The application is supported by the affidavit of **Njagi Kanampiu** sworn on **10th May, 2018** and it states as follows:

I, **NJAGI KANAMPIU, of P. O. Box 2602, EMBU**, in the Republic of Kenya do hereby make oath and state as follows:-

1. That I am the plaintiff/applicant herein and hence competent to swear this affidavit.
2. That I instituted the suit herein on behalf of one Joseph Katheranya Kanampiu apparently being a person who cannot institute a suit on his own behalf (annexed herein and marked NK 1 is a copy of the plaint).
3. That after filing of the said suit the said Joseph Katheranya Kanampiu swore an affidavit claiming that he was a person who could be able to defend his interest (annexed herein and marked NK 2 is a copy of the said affidavit).
4. That he has also done a statement to that effect (annexed herein and marked NK 3 is his witness statement)
5. In view of the court ruling of 19th March, 2018 it is necessary to amend the plaint in order to reflect the true position of the suit and I wish to include the said Joseph Katheranya Kanampiu as a 4th defendant in this suit (annexed herein and marked NK 4 is a copy of the draft amended plaint).
6. That the amendment sought is necessary in order for the court to fully determine the issues under controversy.

7. That what is deponed to herein is true to the best of my knowledge, information and belief.
4. This is an old matter filed way back in 2011, seven year ago. This suit requires to be heard and determined expeditiously.
5. In order not to delay the hearing of this suit and in the interest of justice, the plaintiff's advocate is allowed to include Joseph Kathenya Kanampiu as the 4th defendant and to also include Njagi Kanapiu as the plaintiff.
6. All parties are ordered to fully comply with order 11 of the Civil Procedure Rules within 14 days of today.
7. I order that hearing of the suit proceeds on **19th June, 2018**.
8. It is so ordered.

Delivered in open Court at Chuka this 15th day of May, 2018 in the presence of:

CA: Ndegwa

Majau for 1st, 2nd and 3rd Defendants

Njagi Kanampiu – Plaintiff

Joseph Kathenya Kanampiu – Intended 4th Defendant

P.M. NJOROGI

JUDGE