



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAKURU

ELC NO.242 OF 2015

DAVID MWANGI WANJOHI

JAMES NDUNGU MWANGI

BERNARD MAINA MUTURA(suing in their Capacity as officials
of KAHAMA ORIGINAL GOSPEL CHURCH).....**PLAINTIFF**

VERSUS

SAMUEL MUNGAI KARANJA.....**DEFENDANT**

RULING

(Application to amend plaint; application not opposed; application allowed).

1. The application before me is that dated 28 March 2017 filed by the plaintiff. The applicant seeks leave to amend the plaint.
2. The suit was commenced through a plaint filed on 21 August 2015. In the plaint, the applicant' a church pleaded that it purchased from the defendant a plot measuring 50 X 100 feet from the land parcel Kabazi/Kabazi Block 2/439 (Jumatatu Farm) at a consideration of Kshs. 300,000/= which it is averred was paid in full. The applicant has contended in this suit that the defendant has neglected or refused to subdivide the suit land to carve out the portion that it purchased and in the suit it has inter alia asked for orders of specific performance of their agreement. In his defence, the respondent inter alia pleaded that the plaintiff was his tenant and that by deceit, the plaintiff fraudulently caused him to enter into an agreement for sale. It is also pleaded that the plaintiff engaged a surveyor to hive off one acre of the land instead of a portion of 50 X 100 feet.
3. The original plaint was filed by three persons namely, David Mwangi Wanjohi, James Ndungu Mwangi, and Benard Maina Mutura suing in their capacity as officials of the plaintiff i.e Kahama Original Gospel Church. In this application, it has been mentioned that when the suit was filed, David Mwangi Wanjohi was the then Chairman of the church but he has since died. The purpose of amending the plaint is to delete the name of David Mwangi Wanjohi and in place substitute with the name of Stephen Kamau Mucina, who is said to be the current chairman of the church.
4. I see no harm in the application to amend. It is only aimed at substituting the deceased chairman with the current chairman of the plaintiff church. The plaintiffs instituted this suit in their capacity as officials of the church and that capacity does not change with the inclusion of the said Stephen Kamau Mucina.
5. I therefore allow the application to amend and direct the plaintiffs to effect amendments within 14 days

from today.

6. I make no orders as to costs.

7. It is so ordered.

Dated, signed and delivered in open court at Nakuru this 28th day of June 2018.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In presence of: -

Mr. Ikua present for the plaintiff/applicant

Ms. Alwala holding brief for Mr.Chege for the defendant/respondent.

Court Assistant: Nelima Janepher.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU