



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT ELDORET

E & L CASE NO. 117 OF 2015

ELIZABETH WANZA (Suing in her capacity

and as an administrator of the estate

of the late MUSYOKA MULI).....PLAINTIFF

VERSUS

DAVID LETTING.....1ST DEFENDANT

LAND REGISTRAR, UASIN GISHU COUNTY.....2ND DEFENDANT

CHIEF LAND REGISTRAR, MINISTRY OF LANDS....3RD DEFENDANT

AND

BEATRICE AJANGA.....INTERESTED PARTY

RULING

Elizabeth Wanza, suing in her own capacity and as the administratrix of the Estate of the late Musyoka Muli has brought the application dated 8.5.2018 praying for leave to amend the plaint and that the amended plaint to be deemed as duly filed subject to payment of requisite fees. The application is based on grounds that the plaintiff herein desires to add two parcels of land that the defendant is now claiming ownership yet in fact Eldoret Municipality Block 5/575 is developed and the defendant has just trespassed and erected building on Eldoret Municipality/Block 15/549. According to the plaintiff, the proposed amendment shall enable the court to adjudicate over matter the conclusively and that it is imperative to amend the plaint for a proper determination of issues in dispute. The defendant will not suffer any prejudice if the orders sought are granted. The court has unfettered discretion to grant the relief sought.

The application is supported by the affidavit of Elizabeth Wanza who states that she has been advised by her Advocate on record which advice she verily believes to be true that the proposed amendment is necessary so as to indicate in the plaint another parcel of land that the defendant has lodged a claim and which parcel belongs and was developed by the deceased person.

That she has further been advised by her counsel on record which advice she verily believes to be true that it is necessary that this Honourable court grants her leave to amend his plaint. She verily believes that no prejudice shall be suffered by the defendant/respondent but to the contrary she stands to be greatly prejudiced unless she is allowed to amend her plaint. That it is necessary to amend the plaint so as to enable the Honourable court to adjudicate and determine all matter in dispute herein.

Lastly, that she has been advised by her counsel on record which information she verily believes to be true that this Honourable court has unfettered discretion to grant the orders sought. The respondent was served but has not filed any document in opposition and therefore the application is not opposed.

I have considered the application, supporting and supplementary affidavits and do find that the plaintiff has demonstrated that the amendments sought are necessary to correct errors on the plaint and to enjoin parties likely to be affected by the decision of the court and to assist the court to determine real issues. The defendant will not suffer any prejudice if amendment is allowed as the matter is not part-heard.

The upshot of the above is that leave is hereby given to the plaintiff to amend plaint. The amended plaint to be served within 7 days.

The Land Registrar, Uasin Gishu and the Chief Lands Registrar and the Honourable Attorney General are hereby enjoined as the 2nd, 3rd and 4th defendants respectively. They be served within 7 days. The 1st defendant to file amended defence within 7 days of service. The 2nd to 3rd defendants to file defences within 7 days of service.

Costs in the cause.

Dated and delivered at Eldoret this 20th day of June, 2018.

A. OMBWAYO

JUDGE