



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT ELDORET**

**ELC NO. 263 OF 2017**

**JOHN GACHUI NJUGUNA ALIAS JOHN GACHUI.....PLAINTIFF/APPLICANT**

**VERSUS**

**LUCAS KIPKOSGEY CHEPKITONY.....DEFENDANT/RESPONDENT**

**RULING**

This ruling is in respect of an application dated 16<sup>th</sup> April 2018 brought by way of Notice of Motion by the plaintiff /applicant for orders :

1. That the plaintiff/applicant be granted leave to amend the plaint dated 18/7/17.
2. That the DCIO Eldoret West Central Police Station do avail the results of the sample signature of the plaintiff/applicant and the resultant police file into this Honourable court for verification.
3. That costs of this application be provided for.

Counsel for the parties relied on the grounds on the face of the application together with the affidavits filed.

I have considered the application together with the supporting documentation filed by the parties herein. Courts have powers to allow applications for amendments but the same must be brought in good faith and without delay. The proposed amendments must also not cause injury or prejudice to the opposing parties. It should also not be an abuse of the court process or change the substratum of the case. If the court is satisfied that the above has been met then it can exercise its discretion to allow the application and set the terms for the amendment.

On the second limb of the application for the DCIO Eldoret West Police station to avail the results of sample signature of the plaintiff/applicant including the police file, I wish to state that this is not the right time to apply for such orders. If the same is an issue of contention then the applicant can apply for witness summons for the production of the police file together with the sample signature. I find that limb of the application has no merit and is therefore disallowed.

However the plaintiff is granted leave to file and serve an amended plaint within 15 days from the date of this ruling failure of which the order lapses. The defendant is also granted a corresponding leave to file an amended defence and counterclaim upon service.

**Dated and delivered at Eldoret this 18<sup>th</sup> day of September, 2018.**

**M.A ODENY**

**JUDGE**

Ruling read in open court in the presence of Mr. Mathai for Plaintiff/Applicant and Miss Kiplagat holding brief for Miss Chesio for defendant/Respondent.