

REPUBLIC OF KENYA

ENVIRONMENT AND LAND COURT AT KITALE

CASE NO. 27 of 2014

WILLIAM LOKAPEL:.....PLAINTIFF

VERSUS

VERONICAH LOKAPEL:.....DEFENDANT

RULING

1. The defendant/applicant Veronica Lokapel is the wife of the Plaintiff/Respondent William Lokapel. The plaintiff had filed the suit herein against the applicant seeking an order for removal of a caution lodged on LR. NO. West Pokot/Chepkono/157 by the applicant.
2. The applicant filed a notice of motion dated 9.10.2015 in which she sought leave of the court to amend her defence to include a counter-claim. The applicant contends that the amendment has been made before the suit is heard and that it will assist the court to determine all the issues at once. That there will be no prejudice suffered by the respondent as he will have opportunity to amend his plaint.
3. The applicant's application is opposed by the respondent through a replying affidavit sworn on 19.10.2015 and filed in court on 21.10.2015 The respondent contends that the amendment is only meant to delay the finalization of this case and that the intended amendment will confuse the whole issue in controversy. The respondent further contends that the applicant is out to disinherit his children and that some property mentioned in the proposed amended defence does not belong to him. He further contends that as the sole registered owner of the suitland, he should be let to sub-divide it among his wives as he deems fit.
4. I have considered the applicant's application as well as the opposition to the same. This is an application which seeks to amend the defence and introduce a counter-claim. The application has been made before the case is heard. From the proposed amended defence and counter-claim, it is clear that the issue revolves around sub-division of the properties in issue to the respondent's wives. There is no denial that the applicant is the wife of the respondent. Amendments which will enable the court to solve issues without parties having to resort to filing a multiplicity of cases ought to be freely given especially when they are made at the earliest opportunity as in this case. The proposed amendments are not statute barred and it is clear that it will settle all the issues in question in a convenient manner. The respondent's argument that the amendments will cause confusion or delay is unfounded. I allow the applicant's application and direct that the amended defence and counter-claim be filed and served within 14 days from today. The amended plaint and defence to counterclaim be done thereafter in accordance with the Civil Procedure Rules.

It is so ordered.

Dated, signed and delivered at Kitale on this 25th day of January,2016.

E. OBAGA

JUDGE

In the presence of Mr. Chebii for the respondent.

Court Assistant - Isabellah.

E. OBAGA

JUDGE.

25/1/2016.