



**Waweru v Riony & 2 others (Environment and Land Case 259 of 2016)
[2024] KEELC 14059 (KLR) (16 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 14059 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT AND LAND CASE 259 OF 2016
EO OBAGA, J
DECEMBER 16, 2024**

BETWEEN

PATRICK MAINA WAWERU PLAINTIFF

AND

DAVID AIDA RIONY 1ST DEFENDANT

UASIN GISHU COUNTY REGISTRAR 2ND DEFENDANT

ATTORNEY GENERAL 3RD DEFENDANT

RULING

1. This is a ruling in respect of a notice of motion dated 7.3.2024 in which the Plaintiff/Applicant seeks leave to further amend his plaint. The Applicant contends that it has become necessary to amend the plaint because after the conclusion of succession proceedings, he discovered several aspects of fraud which he intends to include in the further amended plaint. He states that the said amendments will not prejudice the 1st Defendant/Respondent in any way.
2. The application was opposed by the 1st Defendant/Respondent through a replying affidavit sworn on 3.5.2024 in which the Respondent states that the application by the Applicant is an abuse of the process of court in that the Applicant was given opportunity to amend the plaint which he did but failed to incorporate the particulars of fraud which he now seeks to incorporate.
3. The Respondent further contends that the application is meant to delay the finalization of this case and the amendments will prejudice him and in any case the application has been brought after 8 years the suit having been instituted in 2016.
4. Though the parties had agreed to file written submissions neither party filed submissions. I have considered the application for amendment and the opposition to the same by the 1st Respondent. The



principles for grant of leave to amend are now very clear. Leave to amend should be freely granted where the same will not prejudice the Respondent and where same does not introduce a new cause of action.

5. This case has not taken off. The fact that the Applicant had earlier on amended his plaint is not bar to further amendments. The Applicant has indicated that the amendment was necessary after succession proceedings were concluded.
6. Amendments can be made at any stage in the proceedings before close of the case. I therefore find that the Applicant's application is well merited. I allow the same and direct that the amended plaint should be filed within 14 days. Costs of this application shall be in the cause.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 16TH DAY OF DECEMBER, 2024.

E. OBAGA

JUDGE

In the virtual absence of parties who were aware of the date of delivery of ruling.

Court Assistant –Laban

E. OBAGA

JUDGE

16TH DECEMBER, 2024

