

The application is supported by an affidavit deponed by the Applicant, and is opposed through an affidavit deponed by the Respondent.

SUBMISSIONS

- 5 This Court gave parties time frames within which to file their respective written submission. The Applicant filed his submissions on 14th December, 2023, nine days beyond the given deadline of 5th December, 2023. The Respondent had to file hers by 22nd December, 2023 but did not comply.

10 **Applicant's submissions**

- It was submitted for the Applicant that he first instructed M/s Ampurire Associated Advocates to file a plaint for him before realising that the said lawyers were not giving him adequate representation, he withdrew instructions from them and instructed M/s Kwizera & Co Advocates. That upon perusing the
15 plaint, the new advocates realised that some necessary information was omitted and thereby advised for the institution of this application. Counsel relied on **ASSA ABLOY (U) LTD VS JOHN MBOIZI MISC APPLICATION NO.784 OF 2021** for the holding that amendments to pleadings should be allowed if they do not cause injustice to the other side. Counsel also cited **SPACE MANUFACTURING**
20 **UGANDA LIMITED VS EQUITAX UGANDA LIMITED & OTHERS MISC APPLICATION NO.969/2020** for the position that leave to amend will be granted to enable the real questions in issue be determined and that the application should not be made in a malafide manner.

- 25 The respondent did not file any submissions on court record.

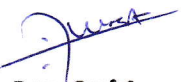
DETERMINATION

I have perused the application and the affidavits deponed by both parties. I have also considered the submissions filed by the Applicant.

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In principle this Court is empowered by **ORDER 6 RULE 19 OF THE CIVIL PROCEDURE RULES SI 71-1** to allow any litigant to amend their pleadings under certain circumstances stated in the law as cited herein below.

Order 6 Rule 19 of the Civil Procedure Rules States:


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Order 6 Rule 19 of the Civil Procedure Rules States:

5 **"19. Amendment of pleadings.**

The court may, at any stage of the proceedings, allow either party to alter or amend his or her pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in
10 controversy between the parties."

The Supreme Court has in **GASO TRANSPORT SERVICES (BUS) LTD V MARTIN ADALLA OBENE [1990-1994] EA 88** laid down four considerations for a court to consider when determining an application for an amendment of pleadings. Hon
15 Justice Tsekooko, JSC stated them as follows:-

1. The amendment should not work injustice to the other side. An injury which can be compensated by award of costs is not treated as an injustice.
2. Multiplicity of proceedings should be avoided as far as possible and all
20 amendments which avoid such multiplicity should be allowed.
3. An application made malafide should not be granted.
4. No amendment should be allowed where it is expressly or impliedly prohibited by law, e.g. limitation of actions.

25 The evidence on court record shows that the proposed amendment that is attached to the affidavit in support as annexure A has the cause of action itemised in paragraphs 4 and 5. A perusal shows that it is still on the same subject and cause of action as is listed in paragraphs 3 and 4 of the plaint on record, in the sense that the cause of action is hinged on an agreement dated
30 10th July 1984 between the plaintiff and the Late Emmanuel Kahangi.

The proposed amendment as can be deduced by the evidence in annexure A of the affidavit in reply, is an addition of more particulars relating to the transaction dated 10th July 1984, which includes the agreement and alleged written
35 acknowledgments of payments.

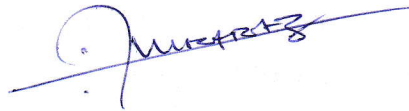
the amendment is vexatious and an abuse of court process (See Paragraph 6 of the affidavit in reply)

5 In my analysis I find that attaching the purchase agreement of 10th July 1984 that is alleged to be at the centre of the controversy will help court determine the real question in controversy between the parties, which is in tandem with the spirit of the law in Order 6 Rule 19 of the Civil Procedure Rules SI 71-1.

10 In my opinion the amendment will not cause an injustice to the respondent since the agreement of 10th July 1984 had already been mentioned in the plaint. I also don't find the application to be malafide or barred by law, in any case it can help with a reduction of multiplicity of proceedings.

In conclusion, I allow the application and make the following orders;

- 15
1. The applicant will file the amended plaint in court within 10days from the delivery of this ruling.
 2. The amended plaint once filed will be served on the respondent within 15 days from the date it is filed in court.
 3. The respondent will pay the applicants costs of this application.
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NSHIMYE ALLAN PAUL M.

JUDGE

29-01-2024