



**Wanjiru v Muriuki (Sued as the personal representative of the Estate of John Edward Wamugunda Muriuki) & another (Environment & Land Case 69 of 2020) [2023] KEELC 17789 (KLR) (25 May 2023) (Ruling)**

Neutral citation: [2023] KEELC 17789 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 69 OF 2020**

**LN MBUGUA, J  
MAY 25, 2023**

**BETWEEN**

**HANNAH WANJIRU ..... PLAINTIFF**

**AND**

**PAULINE NYAMBURA MURIUKI (SUED AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN EDWARD WAMUGUNDA MURIUKI) ..... 1<sup>ST</sup> DEFENDANT**

**CHIEF LAND REGISTRAR ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. This matter is at the hearing stage. The plaintiff's witness PW2 who is a land surveyor took to the witness stand on January 18, 2023. During cross examination by counsel for the 1<sup>st</sup> defendant, counsel for the plaintiff objected to the line of cross-examination, averring that cross-examination was being anchored on documents filed by the 1<sup>st</sup> defendant and to that effect, the 1<sup>st</sup> defendant was inviting an opinion from the witness.
2. In opposition to the objection, counsel for the 1<sup>st</sup> defendant argued that cross-examination is not limited to documents produced and that cross-examination is wide geared towards challenging the veracity and credibility of the evidence adduced. To this end, reference was made to the provisions of section 154 of the *Evidence Act*.
3. Counsel for the 2<sup>nd</sup> defendant argued that while there is a wide latitude in cross – examination, there are boundaries where the expert is a witness like PW2. He averred that the cross-examination of PW2 ought to be limited to documents the expert is producing.
4. Counsel for the interested party aligned himself with the sentiments of the plaintiff's advocate and the Attorney General.



5. I have considered the rival arguments relating to the nature and extent of cross examination of a witness. Section 146 (2) of the *Evidence Act* states that examination-in-chief and cross -examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified in his examination-in-chief. Further the cross examination of a witness as to his credibility is provided for under section 154 of the aforementioned Act. The gist of the proviso is to test the accuracy, veracity or credibility of the evidence of that witness.
6. In *Christopher Ndaru Kagina v Esther Mbandi Kagina & another* [2016] eKLR, the court stated that;  
“Expert testimony must be subjected to vigorous cross-examination and ought to be weighed along with all other evidence.”
7. No arguments have been tendered before this court to indicate that the cross-examination is on irrelevant matters. Further, the witness, who is an expert can simply state that he doesn’t know if indeed he has no answer to a particular question. In the circumstances, I find that the objection is not merited and the same is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25<sup>TH</sup> DAY OF MAY, 2023 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

**Rapondo for Plaintiff.**

**Opola holding brief for Mr. Munge for 1<sup>st</sup> Defendant**

**Court assistant: Eddel**

