



REPUBLIC OF KENYA



KENYA LAW
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**Mwangi v Thiro & 2 others (Environment & Land Case 122 of 2014)
[2022] KEELC 14445 (KLR) (28 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 14445 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 122 OF 2014
FM NJOROGE, J
OCTOBER 28, 2022**

BETWEEN

DANIEL KIMEMIA MWANGI PLAINTIFF

AND

PETER KARIUKI THIRO 1ST DEFENDANT

KENTON KIJABE CO-OPERATIVE SOCIETY 2ND DEFENDANT

LAND REGISTRAR NAIVASHA 3RD DEFENDANT

RULING

1. This court has been treated to an application by Mr. Gekonga for leave to appeal against the Ruling of this court allowing the witness 3DW1 to produce a copy of the Land Register certified by her office in evidence in this case. The other counsel, for the plaintiff and for the 3rd defendant oppose the grant of that leave. They state that the admissions of that document can be made a ground of appeal at the main appeal if there will be any at the end of these proceedings.
2. I have considered the application and the response and I have found it necessary to decline the application for leave to appeal owing to the reasons stated by counsel for the plaintiff and the 3rd defendant.
3. These proceedings are at their tail end and 3DW1 is the last witness in this matter. Though the rulings in interlocutory matters can be appealed against, I have considered two things: (1) the fact that the document in question emanates from the defence and not the plaintiff and Mr. Gekonga is for some section of that defence, and (2) that the analysis I gave hereinbefore prior to allowing the production of that document by 3DW1 is indicative of remote chances of success on appeal as 3DW1 is a competent witness to produce the document and the original could still have been availed albeit it would have necessitated an adjournment and delay in the conclusion of this litigation.



4. I therefore decline that application for leave. Hearing to proceed.

DATED, SIGNED AND ISSUED AT NAKURU IN OPEN COURT ON THIS 28TH DAY OF OCTOBER, 2022.

MWANGI NJOROGE

JUDGE, ELC, NAKURU

