



**Kibuna v City Council of Nairobi & 4 others (Environment and Land Case  
Civil Suit 529 of 2018) [2022] KEELC 13412 (KLR) (6 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 13412 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE CIVIL SUIT 529 OF 2018**

**LN MBUGUA, J  
OCTOBER 6, 2022**

**BETWEEN**

**JEDIDAH NGINA KIBUNA ..... PLAINTIFF**

**AND**

**CITY COUNCIL OF NAIROBI ..... 1<sup>ST</sup> DEFENDANT**

**ABRAHAM MWANGI NJIHIA ..... 2<sup>ND</sup> DEFENDANT**

**CHIEF LAND REGISTRAR ..... 3<sup>RD</sup> DEFENDANT**

**MORRIS GITONGA NJUE ..... 4<sup>TH</sup> DEFENDANT**

**VERA MWASI ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. I find that counsel for the plaintiff has made an application for PW1 to produce another bundle of documents filed on February 26, 2020 after the witness has given her evidence in chief and the cross examination is underway. This is a mark of disorganisation on the part of the said advocate. Having conducted a pre trial exercise on June 21, 2022, the parties ought to know by now the nature and extent of the documents, they desire to rely upon.
2. However, the right to be heard is sacrosanct and the question this court poses is: is the procedural infraction sufficient to warrant the rejection of the said bundle.
3. I find that on June 21, 2022 counsel for plaintiff did identify two bundles they were to rely upon. One dated February 24, 2020 and another of February 26, 2020. So this is not a case of an ambush but a procedural lapse where the plaintiffs simply neglected or forgot to produce the said bundle during examination in chief.



4. What prejudice will be occasioned upon the rest of the parties if the bundle is produced? I find that the witness is still on the dock, and cross examination is under way. Thus the parties will still have a chance to cross examine the witness in relation to the said documents.
5. On the issue of the objection raised by counsel for the 4<sup>th</sup> & 5<sup>th</sup> defendants, I find that no basis has been laid in challenging the said document which appears to be a list. The said defendants will have a chance to cross examine the said witness on the veracity and legitimacy of the said document at the appropriate stage. The objection raised by counsel for 4<sup>th</sup> – 5<sup>th</sup> defendant is declined.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 6TH DAY OF OCTOBER, 2022  
THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Desmond Maina for the Plaintiff

Katila for the 1<sup>st</sup> Defendant

Ondabu for the 2<sup>nd</sup> Defendant

Fatma for the 3<sup>rd</sup> Defendant

Nyaga for the 4<sup>th</sup> & 5<sup>th</sup> Defendant

Court assistant: Joan

