



**Macharia v Murage (Environment & Land Case 283 of 2017)  
[2023] KEELC 15900 (KLR) (3 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 15900 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 283 OF 2017  
FM NJOROGE, J  
MARCH 3, 2023**

**BETWEEN**

**WAWERU MACHARIA ..... PLAINTIFF**

**AND**

**FRANCIS MURIGU MURAGE ..... DEFENDANT**

**RULING**

1. It has been testified by PW2 that an arson attack took place on her farm in the year 2013. She has obtained a certified copy of the newspaper, “The Standard” of November 29, 2023, as evidence and intends to produce it in the case. Ms Njoroge and Mr Ndubi object to such production without citing any specific provisions of the *Evidence Act* to support their objection. They state jointly as the ground for such objection that newspapers reports cannot be admissible as evidence, that the witness was not the author of the said report. Mr Ndubi added that the original plaintiff Waweru Macharia has not been mentioned in the report and that whatever is contained in the report cannot be verified.
2. Mr Kagucia on the other hand submits that the witness has not insisted that she intends to produce the report on the basis of her being the author but as a part of the contemporaneous records of the happenings at the time of the invasion and arson on her farm.
3. I am inclined to consider favourably Mr Kagucia’s submissions for indeed the witness has not insisted on being the author but has stated that that is the newspaper report she was shown. The very fact that it was made in the newspapers and that it concerned an attack on a farm in the Moyasset Scheme, and that the report seems to place the time of the attack to be the year 2013 when her farm was attacked, makes this court believe that the report is relevant.
4. Under section 86 1(b) of the *Evidence Act* the court shall presume the genuineness of every document purporting to be a newspaper. This court cautions itself in this ruling that the writer of that report is



not present to be cross-examined as to the veracity of such statements as are made in the said newspaper report.

5. Having done so, it is aware of the weight to be accorded to that report in this matter. I find that for the reasons stated the said newspaper report is admissible and it is hereby produced by PW2 as PExh.5(c).  
Hearing to proceed.

**DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 3<sup>RD</sup> DAY OF MARCH 2023.**

**MWANGI NJOROGE**

**JUDGE, ELC, NAKURU**

