



**Daudi v Mitei & another (Environment & Land Case 244  
'A' of 2016) [2023] KEELC 17163 (KLR) (3 May 2023) (Ruling)**

Neutral citation: [2023] KEELC 17163 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE 244 'A' OF 2016**

**FM NJOROGE, J**

**MAY 3, 2023**

**BETWEEN**

**JANNITA NDILA DAUDI ..... PLAINTIFF**

**AND**

**SIMON MITEI ..... 1<sup>ST</sup> DEFENDANT**

**KITENGELA ENGINEERING DEVELOPMENT LTD ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. The witness PW4 produced the file No 232333 while he was giving his evidence. A copy of the letter dated October 11, 2012 which is proposed to be produced as an exhibit by DW1 can be found there at Folio 69 and also at folio 53 and folio 45. Also at folio 39. That is what a cursory perusal of the file from the Lands Office produced by PW4 reveals.
2. This court notes that Mr Mwenda's objection is based on the fact that DW1 in the stand is not the author of the letter of October 11, 2012, and that there was in his view a deliberate move by the author of that letter to omit the mention of the existence of a second file relating to the allocation of the suit land which gave rise to the claim by the plaintiff herein. Mr Mwenda also questions why, if there was already a lease already in the existence and transferred, the writer had to write that letter.
3. However, I refer to the fact that the subject letter is addressed to DW1, and quotes his letter of June 11, 2012 and therefore it can afford to be called a response to his letter of June 11, 2012. As the same is addressed to him, it is my opinion that he is entitled to have its custody and this court has no reason to bar him from production thereof.
4. Consequently, I find that the document is admissible in evidence, but I also note the serious concerns raised by Mr Mwenda and concur with Ms Mukira that the same may be addressed through cross-examination of the witness.



5. As to whether DW1 is capable of answering the questions or not, relating to the whys raised by Mr Mwenda, that is not for this court and Mr Mwenda has to devise his own method of addressing the issue, he being the plaintiff's representative.
6. Consequently, I overrule the objection and I order that the letter dated October 11, 2012 shall be produced by DW1 as Dexh 12.
7. Hearing to proceed.

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

**MWANGI NJOROGE  
JUDGE, ELC, NAKURU**

