



REPUBLIC OF KENYA



**Chepwambok & another v Chepkemboi (Environment & Land Case
6 of 2022) [2025] KEELC 3927 (KLR) (21 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3927 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND CASE 6 OF 2022
GMA ONGONDO, J
MAY 21, 2025**

BETWEEN

MARY CHEPWAMBOK 1ST PLAINTIFF

RAPHAEL TONUI 2ND PLAINTIFF

AND

PAULINE CHEPKEMBOI DEFENDANT

RULING

1. The instant ruling is in respect of the defendant's objection to the attempt by No. 66583 PC James Mtiva (PW4) to refer to and produce in evidence, a report reference No. NRB/NDIC/DCIO/8/VOL.1/123 dated 14th June 2018 emanating from the National Registration Bureau Nandi County (The NRB Report herein) in this suit.
2. During examination in chief, PW4 stated that the Directorate of Criminal Investigations Officer's report dated 3rd August 2017 (The DCIO Report herein) about Kenya National Identity Card numbers 4504627 and 2800071 allegedly used in a land sale agreement an issue which was before an Eldoret court, refers to the NRB Report.
3. So, Mr Osewe learned counsel for the defendant lamented that he had not been served with the NRB Report which may amount to trial by ambush. That PW4 should confine himself to the DCIO Report which he believed was conclusive and that let the plaintiffs rely on his list of documents dated 7th February 2024.
4. Mr Maritim learned counsel for the plaintiffs informed the court that the plaintiffs' list of documents contains the DCIO Report making reference to the NRB Report. He sought leave of the court to supply the defendant's counsel with the NRB Report and other documents including extracts mentioned in the DCIO Report and that PW4 be stood down worthwhile.



5. Mr Osewe maintained that he had not been served with the documents intended to be referred to and produced by PW4 as part of the DCIO Report contained in the plaintiffs' list of documents. He urged that reliance be made on the DCIO Report only.
6. In the foregone, is the defendant's objection sustainable?
7. It is common ground that the DCIO Report is contained in the plaintiffs' list of documents. Indeed, the DCIO Report refers to some extracts and information from the National Registration Bureau.
8. The defendant's counsel has the unlimited right to the requisite documents discerned in the DCIO Report pursuant to Articles 25 (c), 48 and 50 (1) of the Constitution of Kenya 2010.
9. Moreover, it is trite law that the right to be heard is fundamental and permeates the entire justice system; see James Kanyiita Nderitu and another-vs-Marios Philotas Ghikas and another (2016) eKLR.
10. This court has the mandate to ensure that the defendant is made aware of the relevant documents indicated in the DCIO Report in the ends of justice under sections 3 and 19 of the Environment and Land Court Act 2015 (2011) as read with sections 1A, 1B, 3 and 3A of the Civil Procedure Act Chapter 21 Laws of Kenya.
11. In that regard, the defendant's counsel to be accorded an opportunity to cross examine PW4 on the documents envisioned in paragraphs 7, 8 and 10 hereinabove. To that extent, the objection partially succeeds.
12. Thus, it is hereby ordered and directed as follows;
 - a. PW4 is stood down to 27th day of May 2025 for further hearing.
 - b. Learned counsel for the plaintiffs to supply the defendant's counsel with all documents relating to extracts and information indicated in the DCIO Report within today.
13. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 21ST DAY OF MAY 2025

G M A ONGONDO

JUDGE

PRESENT;

Mr Osewe learned counsel for the defendant

Mr Maritim learned counsel for the plaintiff

Mr Walter Kipkorir, court assistant

