



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAROK**

**ELC CASE NO. 105 OF 2017**

**FORMERLY NAKURU ELC CAUSE NO. 314 OF 2016**

**NDOVU ESTATES LIMITED.....PLAINTIFF**

**-VERSUS-**

**PETER LEMERIA OLE NTUTU.....DEFENDANT**

**RULING**

I have considered the Application by Mr. C.F. Otieno for the Plaintiff with regards to whether the court should proceed with the hearing of the matter on the basis of a witness statement that was not filed together with the defence.

From the record the defendant had filed his statement of defence on 29/5/2017 and later a witness statement was filed on 9/7/2019 and therefore the defendant ought to have produced both the statement of defence and witness statement. Mr Maina counsel for the defendant argued that they had filed a witness statement on behalf of the defendant together with the defendants list of documents and their statements and there exists no rule to have him produced.

I have considered the application by Mr. Otieno counsel for the plaintiff applicant. The objection raised by Mr. Otieno as fundamental to file proper conduct of the matter and I do agree with him that the defendants ought to have signed his own personal statement as opposed to a statement of defence that is ordinarily signed by the advocates acting for the party and in view of the above I direct that in the interest of justice the defendant's witness statement only signed by himself be filed and served within 14 days. The said statement ought not to contain anything more than that is contained in the disputed witness statement.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAROK ON THIS 23RD DAY OF JULY, 2021.**

**MOHAMED N. KULLOW**

**JUDGE**

**23/7/2021**

In the presence of: -

CA:Chuma

Mr. Otieno for the plaintiff

Ms Mburu for the defendant