



Mugania & 3 others (Suing as the Legal Representatives of the Estate of Jeremiah Mungania Ayub - Deceased) & 2 others v Meru County Government & 3 others (Environment and Land Case E008 of 2020) [2026] KEELC 117 (KLR) (19 January 2026) (Ruling)

Neutral citation: [2026] KEELC 117 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND CASE E008 OF 2020
BM EBOSO, J
JANUARY 19, 2026**

BETWEEN

**MUTHOMI MUGANIA, NKATHA MUGANIA, GEDION MUGAMBI
MWEORIA, SILAS KAMATHI A. MBUI (SUING AS THE LEGAL
REPRESENTATIVES OF THE ESTATE OF JEREMIAH MUGANIA AYUB -
DECEASED) 1ST PLAINTIFF
GIDEON MUGAMBI MWORIA 2ND PLAINTIFF
MUTHOMI MUGANIA 3RD PLAINTIFF**

AND

**MERU COUNTY GOVERNMENT 1ST DEFENDANT
MARTIN MUTHURI MWORIA 2ND DEFENDANT
STANELY RIUNGU MBUI 3RD DEFENDANT
ITOLEKA HOLDINGS 4TH DEFENDANT**

RULING

1. This ruling relates to an objection that was raised on 15/10/2025 by the 2nd defendant against the production of certain WhatsApp messages by PW2 – Muthomi Mungania. While objecting to the production, the 2nd defendant, through his advocate – Mr Muriuki, argued that he was relying on the Data Protection Act. He was, however, unable to cite specific sections of the Act. He stated in general terms that the Data Protection Act prohibits the production of the kind of WhatsApp Messages that PW3 intended to produce. Mr Muriuki further argued that the 2nd defendant was opposed to the production because the WhatsApp messages were uncertified printouts whose source was unknown.



Without citing any specific Section, counsel argued that under the [Evidence Act](#), the documents ought to have been certified. He did not state who should have certified the WhatsApp messages.

2. Supporting the objection, the 3rd defendant, through his advocate – Mr Gikunda Anampiu, submitted that the messages were inadmissible because the authors were unknown. He similarly made a general statement to the effect that the WhatsApp messages were private data and were protected under the Data Protection Act, hence they should not be admitted.
3. Responding to the objection, Mr Nyaga, counsel for the plaintiff, argued that Order 11 of the Civil Procedure Rules provides for elaborate pre-trial proceedings. He added that the WhatsApp messages were part of the plaintiffs’ documents that were subjected to pre-trial and there was no objection to their production during pre-trial. Counsel argued that the defendants did not file any notice of objection to the production of the WhatsApp messages.
4. Counsel for the plaintiffs further submitted that the objectors had made general objections without citing any specific provision of the law and argued that this is a civil suit. Counsel emphasized that the plaintiff was a member of the WhatsApp Group Wall and therefore a recipient of the WhatsApp messages. Counsel further argued that there was no mandatory requirement for certification of documents in a civil suit, emphasizing that Section 106B of the [Evidence Act](#) did not apply to civil proceedings.
5. The court has considered the objection and the response to the objection. The above objection which was based on the Data Protection Act and the [Evidence Act](#) should ideally have been raised during pre-trial. It is being raised at the point of production. That said, the position of the plaintiffs is that PW1 was at all material times a member of the Group WhatsApp Wall and a recipient of all the messages that were posted on the Group’s WhatsApp Wall. As one of the recipients, he cannot be blocked from producing the WhatsApp messages that he received. In any event, the objector has not cited any provision of the Data Protection Act or the [Evidence Act](#) which prevent a Group Member from tendering as evidence in a court of law a WhatsApp post by another member of the Group.
6. However, for the WhatsApp messages to be admitted, PW3 must comply with the requirements of Section 106B of the [Evidence Act](#) by attaching to the printed WhatsApp messages a relevant certificate. The position taken by Mr Nyaga to the effect that Section 106B of the [Evidence Act](#) does not apply to civil proceedings is, in my view, incorrect. Section 106B of the [Evidence Act](#) applies to both criminal and civil proceedings.
7. In the end, the finding of the court on the objection is that subject to compliance with Section 106B of the [Evidence Act](#), the WhatsApp messages are admissible as part of PW3’s evidence.

DATED, SIGNED AND DELIVERED AT MERU THIS 19TH DAY OF JANUARY, 2026.

B M EBOSO [MR]

ELC JUDGE

