

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 10 OF 2018

JOSEPH KIHARA GITUI.....PLAINTIFF

VERSUS

CHARLES KINYUA KIHUTO..... DEFENDANT

RULING

1. On 2.10.2019, Mr. Ashaba, appearing for the plaintiff objected to the production of two defence documents which are a letter dated 20.4.2000 and the electricity bills. As far as the letter of 20.4.2000 is concerned, Mr. Ashaba stated that defendant is not the author and that on 19.12.2018, defendant had been ordered to avail the original document. As for the electricity bills, Mr. Ashaba averred that they are of no evidential value.

2. In response, defendant averred that the letter of 20.4.2000 is certified. For the electricity bills, he avers that he was staying there and he is the one who was paying the bills.

3. I find that the court gave a ruling regarding the production of the letter dated 20.4.2000 on 19.12.2018, whereby the court disallowed the production of the copy. On that day defendant had sought time to avail the original. In the circumstances the objection is sustained. Defendant is directed to avail the original document.

4. As for the electricity bills, the plaintiff's side is at liberty to cross examine the witness on the relevancy of the same. I decline to uphold the objection. I direct that the said bills be admitted as evidence of the defendant.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 4TH DECEMBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Muchomba holding brief for Ashaba for plaintiff

Plaintiff

Defendant

HON. LUCY. N. MBUGUA

ELC JUDGE