



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC NO. 395 OF 2017

PETRO OIL KENYA LIMITED.....PLAINTIFF

VERSUS

THE NATIONAL POLICE SERVICE COMMISSION.....1ST DEFENDANT

THE OFFICER IN-CHARGE TONONOKA ADMIN POLICE CAMP...2ND DEFENDANT

THE ETHICS AND ANTI-CORRUPTION COMMISSION.....3RD DEFENDANT

RULING

1. Mr. Makuto for the 1st & 2nd Defendants/Respondents objects to the admission of a compact disk containing a video footage. The same is annexed to the further affidavit of Benjamin Kingori sworn on the 23.1.2018.

2. In paragraph of the said affidavit, Benjamin Kingori has annexed a compact disk which he states contains a video footage showing unidentified persons trespassing on the suit property by accessing from the 2nd Defendant's neighbouring premises and breaking down the wall.

3. I have considered the relevant provisions of the law, Sections 78, 78A and 106B of the Evidence Act. I hereby make the following observations;

- a) The said compact disk is not accompanied by a certificate as to its authenticity as required by Section 106B of the Act.
- b) Benjamin Kingori does not say he is the originator of the same.
- c) He does not say he is a professional or expert in the area of making such information contained in the said compact disk.
- d) Infact it is not clear who the originator of the compact disk is.

I find that the same is inadmissible and is expunged from the court record. It however adds no probative value to the issues in question.

It is so ordered.

Dated, signed and delivered at Mombasa on the 15th day of February 2018.

L. KOMINGOI

JUDGE

15/2/2018