



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC CASE NO 110 OF 2012

JAPHET KIRIMI.....1ST PLAINTIFF

PETER KINOTI.....2ND PLAINTIFF

MARTHA NKATHA.....3RD PLAINTIFF

GLADYS KAREGI MUGUNA.....4TH PLAINTIFF

VERSUS

ROSEMARY KAROKI RUTERE.....1ST DEFENDANT

PETER RUTERE.....2ND DEFENDANT

RULING

1. On 27.2.2018 the plaintiff witness no. 4, one Gladys Karegi was midstream of her testimony when plaintiff's counsel made an application for the witness to be stood down for plaintiff to be allowed to file a supplementary list of 8 receipts. This application was objected upon by defence counsel who averred that this is a 2012 matter, that pre-trial had been conducted and they (defence) stand to be prejudiced if documents are introduced at this stage.

2. Article 50 of the constitution provides that;

“Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body”.

3. The question to ask is *“what is fair, what is just?”* This is a case of 2012. For the last five plus years where were these documents that plaintiff wants to introduce in the middle of the trial. This is a case whereby already 3 witnesses of the plaintiff have testified and they have been cross examined. Pre-trial had also been conducted and the matter was certified as ready for trial.

4. In such circumstances, counsel for plaintiff ought to have laid basis for the application to introduce documents at this stage. It is not enough to state that no prejudice will be occasioned to the other side.

5. The application to introduce a supplementary list is hereby declined.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 11th APRIL, 2018 IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

Kithinji holding brief for Mokuja plaintiffs – present

Miss Mutinda for defendant - absent

HON. LUCY. N. MBUGUA

