



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 111/2013

HUSSEIN NOOR HAJL.....1ST PLAINTIFF

RASHID MAALIM.....2ND PLAINTIFF

VERSUS

ABDI TARI ABKULA.....DEFENDANT

RULING

1. Plaintiff's case was closed. Defence case is also almost complete. Plaintiff has however filed an application dated 24.7.2018 where he is seeking for orders to reopen the case for purposes of production of documents.

2. The grounds in support of the application are that when plaintiff testified, he didn't have his original documents as they were in Namanga where he resides. Defendant who had filed a notice to act in person on 9.10.2018 opposed the application averring that the documents are manufactured.

3. I have perused the record and I find that plaintiff testified way back on 13.9.2016. During his testimony, he identified several documents which were in his original list and the latter list filed with the case summary. He had also informed the court that he didn't carry the original documents but he would produce them later.

4. The court had proceeded to give directions as follows: Matter will be adjourned so that the documents marked for identification in the plaintiff's evidence can be produced.

5. This is a clear indication that plaintiff had been allowed by the court to avail his documents at a later stage.

6. When I took over the case on 1.5.2017, directions were taken for the case to proceed from where it had stopped hence other witnesses continued to tender their evidence.

7. I therefore find that applicant has laid a basis as to why he ought to be allowed to produce the original documents.

8. However, the documents which shall be produced are the ones which were marked for identification as follows:

- (i) MFI 1; county council minutes dated 23.9.1997 (item 2 in first list)
- (ii) MFI 2; letter of allotment dated 4.9.1998 (item 4 in first list)
- (iii) MFI 3: Letter by Shadrack Mwithalii dated 17.8.2016 (item 1 in 2nd list)
- (iv) MFI 4: Letter by Arthur Mbatia dated 3..... 2012 (item 2 in 2nd list).
- (v) MFI 5: letter dated 29.4.2013 by Daniel Kathuraku (in 2nd list)
- (vi) MFI 6: PDP found in 1st list as item 3.
- (vii) MFI 7: County council receipts (in first list)
- (viii) MFI 8: Receipt from surveyor (first list)

9. It is further noted that the notice of intention to sue was produced as P. Exhibit I hence the other documents shall be produced as P. exhibit 2, 3, etc.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 31ST DAY OF OCTOBER, 2018

IN THE PRESENCE OF:-

Court Assistant: Janet/Galgalo

Mamu for plaintiff

Defendant

Plaintiff

HON. LUCY. N. MBUGUA

ELC JUDGE