



**Sofat & another v Trustees of the Kenya Assemblies of God & 3 others (Environment & Land Case 402 of 2013) [2024] KEELC 5581 (KLR) (18 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5581 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 402 OF 2013  
LN MBUGUA, J  
JULY 18, 2024**

**BETWEEN**

**SURESH KUMAR SOFAT ..... 1<sup>ST</sup> PLAINTIFF**

**SADINA SOFAT ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**TRUSTEES OF THE KENYA ASSEMBLIES OF GOD ..... 1<sup>ST</sup> DEFENDANT**

**NAIROBI CITY COUNCIL ..... 2<sup>ND</sup> DEFENDANT**

**THE LAND REGISTRAR (NAIROBI OFFICE) ..... 3<sup>RD</sup> DEFENDANT**

**THE HONOURABLE ATTORNEY GENERAL ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. The hearing of this matter is at Defence stage. While DW1 was on the dock giving his testimony, an objection was raised by counsel for the plaintiff to the production of the document at page 20 of 1<sup>st</sup> defendants bundle of documents. The said counsel stated that he had raised the objection at case conference on 20.6.2022, and that even if no such objection was raised, he finds that the document in question, a letter is in contradiction with other letters issued by the 3<sup>rd</sup> defendant. He avers that it is unlikely that the 3<sup>rd</sup> defendant will call any witnesses, hence the maker of the said letter should be called to produce the same.
2. Counsel for the 3<sup>rd</sup> defendant was in agreement that the objection should be raised at the time of the hearing.
3. Counsel for the 1<sup>st</sup> defendant opposed the objection contending that such an objection cannot be raised after pre-trial conference.
4. In rejoinder, counsel for the plaintiff averred that he never attended the pre-trial conference.



5. The disputed document is a letter dated 3.3.2014 at page 20 of 1<sup>st</sup> defendant's bundle of documents from E. Wafula for the Chief Land Registrar indicating that the Grant issued to the plaintiffs is a forgery. The question for determination is whether the said document should be admitted in evidence. According to Plaintiff's advocate, the objection to the production of documents should be done during the hearing.
6. I however differ on this point. What would be the whole purpose of having the elaborate provisions of case management as set out under Order 11 of the *Civil Procedure Rules* if such objections are to be raised at the hearing? The said rule provides for pre-trial conferences which are meant to inter-alia aid in expeditious disposal of suits. To this end, courts are mandated to uphold the objectives set out under Article 159 (2) (b) and (d) as well as Section 1A, 1B, 3 and 3A of the *Civil Procedure Act* by exploring expeditious ways of introducing evidence upfront, hence the trial bundle is usually availed well in advance of the date of the trial.
7. This means that courts are called upon to actively manage cases so as to shepherd the trial in a harmonious and speedy manner. Active Case Management is one of the best practices to combat case backlog and it is anchored on the courts ability to exercise Judicial control over the legal processes with a view to ensuring that the overriding objective is achieved. This in turn enhances processing efficiency, promotes court control of cases, and provides judicial officers with the tools that may be used to dispose off a case efficiently. These techniques reduce delays and case backlogs, and provide information to support the strategic allocation of time and resources - all of which encourage generally better services from courts.
8. In the case of *Moschion v Mwangi (Environment & Land Case 350 of 2018)* [2023] KEELC 17144 (KLR) (27 April 2023) (Ruling), the court, Mbugua J laid emphasize on the importance of pre-trial conference in the following terms;

“The legal regime governing the conduct of Pretrial processes swaddles various laws and rules including Article 159 (2) (b) of the *Constitution* of Kenya on expeditious trial, Article 50 (1) of the said Constitution on legitimate expectation of fairness as well as Section 1A and 1B of the *Civil Procedure Act* on the overriding objective of the said statute and Order 3 as well as Order 11 of the *Civil Procedure Rules* on Case Management.

The overarching principle in the above mentioned law is the “Expeditious delivery of justice” as Justice delayed is justice denied. The principle emphasizes minimal delays, while promoting timely concluding of cases. Further, the principle encompasses the doctrine of predictability and reliability, such that there is no trial by ambush, that there is improved quality of litigation and that the workload is quantified”.
9. The Environment and Land Court Practice Directions of 25.7.2014 at section 28 (g) provide that one of the activities to be undertaken during Pre-trial conference is;

“Taking of all objections to the production of specific documents, where notice has been issued to the other party, thereafter, objections on the production of any document shall not be entertained at the main hearing”.
10. From the record, it is clear that pre-trial conference was held on 25.1.2021 and on 4.10.2022, and no objections to any documents were raised. The plaintiff was represented on both dates. It is therefore rather late in the day for the plaintiff to raise objections on the documents. After all, the plaintiffs will have an opportunity to interrogate the witness on the relevancy and veracity of the said document at



the platform of cross examination. To this end, the objection raised by the plaintiff's advocate is hereby dismissed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 18<sup>TH</sup> DAY OF JULY, 2024 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:-

Gathu for Plaintiff

Jaoko for 1<sup>st</sup> Defendant

A.Kamau for 3<sup>rd</sup> and 4<sup>th</sup> Defendants

Koceyo for 2<sup>nd</sup> Defendant

Court assistant: Eddel

