



Mbugua v Kanyi & another; Okando (Interested Party) (Environment & Land Case 250 of 2018) [2023] KEELC 939 (KLR) (13 February 2023) (Ruling)

Neutral citation: [2023] KEELC 939 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 250 OF 2018
LN MBUGUA, J
FEBRUARY 13, 2023**

BETWEEN

SALOME WAIRIMU MBUGUA PLAINTIFF

AND

ESTHER NYOKABI KANYI 1ST DEFENDANT

NAIROBI CITY COUNTY 2ND DEFENDANT

AND

JAMES PATRICK OKANDO INTERESTED PARTY

RULING

1. This ruling relates to the objection raised by counsel for the plaintiff on the basis that the document at page 16 of 1st defendants bundle did not emanate from the County Government; was not authored by the witness (Dw1) and was not addressed to the said witness. Further, counsel for the plaintiff contends that counsel for the 1st defendant had also made an objection on production of their documents during the hearing of plaintiffs' case.
2. Counsel for the 1st defendant contends that pretrial was done and no objection was ever raised on production of the documents.
3. I have perused the document at page 16 of 1st defendants' bundle. Indeed it is not addressed to the witness and it doesn't emanate from her. However, that is her (Dw1's) document. The plaintiffs side shall have an opportunity to cross examine her on the relevancy and authenticity of the said document; Noting that indeed the whole purpose of having Order 11 in our civil litigation is to ensure that evidence which a party intends to rely on is availed upfront. The plaintiff's side hence had sufficient time to give advance notice of their objection.



4. In relation to proceedings when plaintiff was testifying, what is recorded is that the plaintiff's side desired to produce 19 documents, omitting to produce the document identified as No 18 of which Mr Wachira was to be called to produce the same. The circumstances surrounding the calling of Mr Wachira as a witness only relate to the application for summons requiring attendance and nothing more. In the circumstances the objection is declined.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF FEBRUARY, 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

Juma for Plaintiff

Gichuru D.N for 1st Defendant

Nyaguna for 2nd Defendant

Oganji for the Interested Parties

Court assistant: Eddel

