

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA
CIVIL SUIT NO. 012 OF 2021

MARIA'S CARE ::: PLAINTIFF

VERSUS

KIBONO WILLIAM ::: DEFENDANT

**BEFORE HON. LADY JUSTICE FARIDAH SHAMILAH BUKIRWA
NTAMBI**

RULING

During the hearing of this case on 19th January, 2023, Counsel for the Plaintiff, Ms. Florence Nalukwago, submitted to Court the original copy of the Plaintiff's Board Resolution authorising Mr. Fred Owor Gumasi, the Deputy Administrator of the Plaintiff to be a witness in this matter and to present all evidence pertaining to this case, among others. She also tendered in Special Powers of Attorney authorising Mr. Fred Owor Gumasi to represent the Plaintiff in this case, a letter issued by the office of the L. C III confirming that Mr. Lawrence Bajainja Abise, the Plaintiff's witness served as the LC1 Chairman of Bugondha village, Busota Parish, Kamuli district from 2001 to 2008 and also submitted a copy of his National Identity Card. and the Court Order issued on 3rd May 2021 in Miscellaneous Application No.063 of 2021. Counsel prayed to tender in the documents which prayer, Counsel for the Defendant, Mr. Ssemwogerere Samuel objected to.

Court directed both parties to file their submissions on the objection and gave schedules thereof.

Without regard to the lapses in adhering to the schedules for filing submissions, I will proceed to determine the objection.

Although learned Counsel for the Defendant raised an issue on the Plaintiff's Additional trial bundle filed on 25th May 2022 as being incurably defective for non-compliance with the provisions of the law, specifically that it was filed without leave of Court, the objection he raised during the hearing was limited to tendering in of specific documents namely; the Court order, the Special Powers of Attorney, the Plaintiff's Certificate of Registration and Special Resolution and not the additional trial bundle. With greatest due respect, I find Counsel's submission on the additional trial bundle out of context. I will restrict my ruling on the objection as raised during the hearing.



07.06.2023

In her submissions, Counsel for the Plaintiff stated the National Identity Card and L. C. III letter amongst the documents objected to by Counsel for the Defendant. I have carefully analysed the Court record and found that Counsel for the Defendant never objected to these two documents.

I shall now address Defendant's Counsel's objection to the submission the Court Order, Special Powers of Attorney, Certificate of Registration and Special Resolution by the Plaintiff's Counsel. According to the court record, it was Counsel for the Defendant that asked the Plaintiff's witness during cross examination to present these documents. The Plaintiff's witness was left with no choice but to present the documents as requested for by opposite counsel hence the prayer to tender them in.

Although I find the procedure through which Counsel for the Defendant solicited for the documents in issue alien to practice, I find no reason to lock out the documents since they adhere to the rules of evidence. The documents were produced in their original form. (See Section 60 & 61 of the Evidence Act).

That as it may be, I agree with Counsel for the Plaintiff's submission that the documents in issue are in no way fatal or prejudicial to the defendant's case as they do not introduce a new matter or claim and no miscarriage of justice is caused. In any event, these are public documents within the meaning of Section 73 (b) of the Evidence Act.

I find no reason to uphold the Defendant's objection. The Plaintiff's prayer to tender in the Court order, Special Powers of Attorney for the witness, the Plaintiff's Certificate of Registration and Special Resolution is thus granted.

I so order.



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JUSTICE FARIDAH SHAMILAH BUKIRWA NTAMBI
Ruling delivered on 7th June, 2023