

**IN THE HIGH COURT OF JUSTICE OF THE  
CAPITAL TERRITORY ABUJA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA - ABUJA**

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU & GODSPOWER EBAHOR**

**COURT NO: 6**

**SUIT NO: FCT/HC/PET/92/2016**

**BETWEEN:**

**DR. CHUKWUKAODINAKA NWAKAELo ERNESTINA.....PETITIONER**

**VS**

**DR. CHUKWUKAODINAKA MARTIN IKECHUKWU.....RESPONDENT**

**RULING**

This is a Ruling on the Admissibility or otherwise of a copy of a letter dated 23/12/2004 identified by the PW1 as issued by her to her father, sought to be tendered in evidence by Respondent's Counsel through PW1 during Cross-examination. Petitioner's Counsel objects to the Admissibility of the said document on the ground that the document is a photocopy of letter to the father of the witness, and no foundation of the whereabouts of the original was laid. Respondent rather stumbled into it. By Section 88 of the Evidence Act, document are proved by their primary source and if a copy is to be used, there must be explanation of the whereabouts of the original prays the court to reject the document as evidence.

Respondent, Counsel for the Respondent submits that Admissibility of documents are governed by relevancy. Refer to Section 4 of the Evidence Act. Secondly admitted facts need no further proof. Thirdly the Petitioner

who made the document has owned up as the maker of the document and attested to same in Paragraph 16 and 17 of Petitioner's Written Statement on Oath the witness has also identified the document as her own and having admitted the document the issue of the whereabouts of the original supposedly be with the Petitioner's Daddy has been settled. Urge Court to admit the document in the circumstance and discountenance the objection of the Petitioner's Counsel to its Admissibility.

Replying on point of law, Petitioner's Counsel urge the court to rely on the records of court to determine the issue and further urge court to refuse the document.

Having carefully considered the submission for and against the Admissibility of the document in issue, I find that the issue which calls for determination is;

“Whether the document in issue is capable of being admissible in evidence”

The criteria which guides the Admissibility of documentary evidence have been held to be three-folds in a Plethora of cases, they include;

- (1) Is the document pleaded?
- (2) Is the document relevant?
- (3) Is the document admissible in law?

See Okonji Vs Njokanma (1999) 12 SCNJ 259 @ 272.

However this will not apply in the instant case as the document in issue is being tendered in evidence through PW1 during her cross-examination,

and under Section 223 of the Evidence Act, a witness may be asked any question which tend to test his accuracy veracity or credibility or discover who he is and what it is his position in life or shake his credit by injuring his character, hence? The sky is said to be the limit of the party cross-examining the witness.

It is on records that the PW1 had given evidence of the letter by stating it in Paragraph 16 and 17 in her Witness Statement, therefore the Respondent's Counsel may ask question concerning the said evidence and tender any document in furtherance of the question, but such document must pass the credible of documents admissible in law. The document in contention is a copy which has been identified by the PW1 – the maker in her testimony and also admitted making the letter. And this is my opinion satisfies the Provision of Section 87 (a) (i) of the Evidence Act and is therefore admissible. The contention of Petitioner's Counsel that no foundation was laid for the Admissibility of the document in issue will not avail the Petitioner.

The court having found the document is within the questions that may be put to a witness under Section 223 of the Evidence Act and same having been admitted and identified by the PW1 during Cross-examination is admissible under Section 87 (a) (i) of the Evidence Act. The objection of the Petitioner's Counsel is hereby overruled and accordingly the copy of the letter dated 23/2/2004 made by the Petitioner is admitted as Exhibit "E".

**HON. JUSTICE O.C. AGBAZA**

(Presiding Judge)

30/5/2022

**APPEARANCE:**

CHINWE AMOKAHA FOR THE PETITIONER

C. OCHE WITH HIM B.S. BARAU FOR THE RESPONDENT