

**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/165/2016**

**BETWEEN:**

**MRS. UJU MBANEFO.....PETITIONER**

**VS**

**MR. FRANCIS NNAMDI MBANEFO.....RESPONDENT**

**RULING**

This is a Ruling on the Admissibility or otherwise of a bundle of documents issued by King's Care Hospital Ltd sought to be tendered in evidence by the Petitioner's Counsel through DW1 during Cross-examination of DW1 – Respondent. Respondent's Counsel objects to the admissibility of the said documents on the ground that the document is not from DW1, but from Kings Care Hospital hence the document cannot be tendered through DW1, considering Section 14 of the Evidence Act.

Responding, Counsel for the Respondent submits that the witness has admitted and identified the documents along with signatures. Further, the objection by the Respondent's Counsel is not based on law. That by the Provision of Section 232 of the Evidence Act a document can be tendered under Cross-examination through a witness the documents are originals,

relevant and in admissible form. Therefore, urge court to overrule the objection and admit the documents.

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

“Whether the bundle of document in issue are capable of being admissible as evidence”

The criteria which governs Admissibility of documentary evidence has been stated in a Plethora of authorities that is;

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

I have taken a look at the document vis-à-vis the pleadings of the parties and I find that the facts relating to the Kings Care Hospital Ltd who issued the document in contention are pleaded in Paragraph 8 (K) of the Petition as well as Paragraphs 49 & 74 of the Respondent’s Answer and Cross Petition. Respondent (DW1) also stated facts relating to the said Kings Care Hospital Ltd during his examination-in-chief. I also find that documents relevant to the suit. The pertinent question which follows is whether the documents are admissible in law.

The contention of the Respondent’s Counsel in the main is that the Provisions of Section 14 of the Evidence Act precludes the document from being admissible as evidence. On the other hand it is the contention of

Petitioner's Counsel that the Provisions of Section 232 of the Evidence Act makes the document's admissible in law. Section 14 of the Evidence Act provides for Evidence obtained improperly or in contraventions of a law. Respondent places reliance in the said Provision in urging the court to reject the documents while the witness. DW1 informed the court that the Kings Care Hospital Ltd has accused the Petitioner through him of fraudulently taking away the folder, as it is written on top of the folder "not to be handled by patient. He also accused the Petitioner of falsifying the document and presents it to the court. A look at the document reveals that there is nothing on the face of the documents which states that they are not to be handled by the patients. Secondly the DW1 failed to state the particulars of the alleged falsified portions of the documents. These are weighty allegations but no facts were provided to substantiate them. Therefore the reliance of the Respondent's Counsel on Section 14 of the Evidence Act cannot avail them, I so hold. Under the Provisions of Section 232 of the Evidence Act the party Cross-examining a witness the DW1 in the instant case, is at liberty to confront the witness with any fact, insofar as the facts are relevant to the case. I have found earlier that the documents in issue are relevant to the case these in conformity with the question allowed during cross-examination. The DW1 had earlier stated facts relating to the Kings Care Hospital the issues of the documents therefore the documents are admissible under the Provisions of Section 232 of the Evidence Act. And the documents being in original form as stated by the Respondent's Counsel are admissible in law under Section 86 (1) of the Evidence Act.

From all of these having found the documents pleaded, relevant and admissible in law, the bundle document is issued by King's Care Hospital Ltd are hereby admitted as Exhibit "G". The objection of Respondent's Counsel to the Admissibility of the documents is accordingly dismissed.

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

Presiding Judge

12/4/2022

**APPEARANCE:**

CHUKS MPAMA ERIUGO - FOR THE PETITIONER

JEFFERY OGBAJI - FOR THE RESPONDENT