



Lukano (Suing As The Legal Representative Of The Estate Of Evans Siema Lukano (Deceased)) v Director of Occupational Health and Safety; Jamly Services & another (Interested Parties) (Judicial Review E133 of 2021) [2023] KEHC 21435 (KLR) (Judicial Review) (31 July 2023) (Ruling)

Neutral citation: [2023] KEHC 21435 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

JUDICIAL REVIEW

JUDICIAL REVIEW E133 OF 2021

JM CHIGITI, J

JULY 31, 2023

IN THE MATTER OF AN APPLICATION BY KIZITO LUKANO FOR JUDICIAL REVIEW ORDERS OF MANDAMUS

AND

IN THE MATTER OF THE CONSTITUTION OF KENYA ARTICLE 48, 159, 22(2) (A) & 23(3)

**IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTIONS ACT, 2015
IN THE MATTER OF THE WORK INJURY BENEFITS ACT SECTION 53(1),**

23, 26, 34

BETWEEN

**KIZITO LUKANO APPLICANT
SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF EVANS SIEMA
LUKANO (DECEASED)**

AND

**THE DIRECTOR OF OCCUPATIONAL HEALTH AND
SAFETY RESPONDENT**

AND

**JAMLY SERVICES INTERESTED PARTY
GURDEV ENGINEERING INTERESTED PARTY**



Necessity for a review on the Work Injury Benefits Act compensation framework so as to have a legislative framework that resonates with the Fair Administrative Action Act

The applicant claimed that despite the Director of Occupational Health and Safety (the respondent) being duly served with an order of mandamus compelling him to fulfill his public duty, he disobeyed and or failed to respect the court order. The court highlighted the salient features in an application for contempt of court. The court further held that only the respondent had the legislative mandate to deal with liability as it determined the issue of compensation. The court also stated that there was a need to rethink the Work Injury Benefits Act compensation framework and probably overhaul it so as to have a legislative framework that resonated with the Fair Administrative Action Act.

Reported by Kakai Toili

Jurisdiction – jurisdiction of the High Court - jurisdiction to deal with the issue of liability and compensation of an employee who had been injured in the course of work - whether the High Court had the jurisdiction to deal with the issue of liability and compensation of an employee who had been injured in the course of work - Work Injury Benefits Act, Cap 236, section 53(2)(e).

Civil Practice and Procedure – contempt of court - application for contempt of court - what were the salient features in an application for contempt of court - Judicature Act, Cap 8, section 5.

Brief facts

The 2nd interested party subcontracted the 1st interested party to carry works at Barclay's Plaza on agreed terms of their contract. During the execution of the works the 1st interested party's employee fell from 2nd floor to the mezzanine floor and died as a result of the injuries sustained. The applicant filed an application seeking a judicial review order of *mandamus* compelling the Director of Occupational Health and Safety (the respondent) to fulfill his public duty. Subsequently, an order for *mandamus* was issued against the respondent.

The applicant claimed that despite being duly served with the court order; the respondent disobeyed and or failed to respect the court order. According to the applicant, it was unfortunate that section 53(2) (e) of the Work Injury Benefits Act, 2007 gave only the respondent powers that included ensuring that employees who were injured were compensated in accordance with the provisions the Act. Therefore, that meant that once the matter had been reported to the respondent, all other channels to pursue justice were blocked until the respondent made a determination on the matter. The applicant contended that the whole process had been made very tedious to victims who sought justice.

Issues

- i. What were the salient features in an application for contempt of court?
- ii. Whether the High Court had the jurisdiction to deal with the issue of liability and compensation of an employee who had been injured in the course of work.

Held

1. Article 10(2)(a) of the Constitution of Kenya 2010, provided that the national values and principles of governance included; patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people.
2. It was the plain and unqualified obligation of every person against or in respect of whom an order was made by a court of competent jurisdiction to obey it unless and until it was discharged and disobedience of such an order would as a general rule result in the person disobeying it being in contempt and punishable by committal or attachment and in an application to the court by him not being entertained until he had purged his contempt.
3. The rule of law would be in great danger if the courts failed to ensure compliance with court orders. Without enforcement through punishing for contempt of court, the orders of court would remain mere rhetoric not worth the paper they were written on. A judge who failed to enforce his orders



- through punitive measures against those who disobeyed them had no business conducting the next trial.
4. The ingredients to be proved in a contempt application were well settled. Some of the salient features in an application for contempt of court were as follows:
 - a. Disobedience of a court order or judgment was a foundation for contempt of court proceedings against the contemnor.
 - b. Where the contemnor was a company or other corporation, the committal order may be made against any director or other officer of that company.
 - c. The judgment or order in question must be served on the person required to do or not to do the act in question unless the court expressly dispensed with personal service.
 - d. Where the person required to do or not to do an act was a company or other corporation, a copy of the judgment or order must also be served on the alleged contemnor.
 - e. Judgments and orders must be served personally.
 - f. The court may, however, dispense with personal service if it was satisfied that the contemnor had notice of the judgment or order:
 - i. By being present when the judgment or order was given or made.
 - ii. By being notified of its terms by telephone, email or otherwise.
 - g. The court may also dispense with personal service if it thought it was just to do so or may make an order in respect of service by an alternative method or an alternative place.
 - h. There shall be permanently displayed on the front copy of the judgment or order served a warning to the person required to do or not to do the act in question that disobedience to the order would be contempt of court punishable by imprisonment, a fine or sequestration of assets. Without that display the judgment or order may not be enforced unless it was an undertaking contained in a judgment or order.
 - i. The contempt of court application shall be made by an application notice in the same proceedings in which the judgment or order was made.
 - j. The application notice must set out in full the grounds on which the committal application was made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; and must also be supported by one or more affidavits containing all the evidence relied upon.
 - k. The application notice and the evidence in support must be served personally on the respondent although the court may dispense with service under paragraph (i) if it considered it just to do so: or may make an order in respect of service by an alternative method or at an alternative place.
 5. The respondent could not claim lack of knowledge of the court order in issue. The order was clear and unambiguous and binding. The only statutory basis for contempt of court law in so far as the Court of Appeal and the High Court were concerned was section 5 of the Judicature Act. The respondent was also served with the application before the court.
 6. Having played their part as required by the law, the interested parties had nothing to do with the order of November 22, 2022. There was no proof that there was a purge of the contempt by the respondent. The court must not preside over matters and issue orders in vain. The respondent was in contempt of the order of November 22, 2022.
 7. Structural interdicts were part of the remedies that a court could fashion to remedy a violation of fundamental rights and freedoms. There were a lot of arguments around liability which the court lacked jurisdiction to address its mind to. Only the respondent had the legislative mandate to deal with that as it determined the issue of compensation.
 8. The court was in the circumstances hesitant and would not embark on a merit analysis because the applicant had not tendered any evidence that would have helped the court assess damages. The court



- had not lost sight of the need to compensate the applicant. The respondent remained within the court's reach and the court had a duty to ensure that justice was dispensed with.
9. The statute had set a very onerous task on the shoulders of the victims of industrial related accident. Most of the victims had to expend and look for financial support in order to access justice. The reality was that more often than not, the victims seeking justice through the respondent had already lost their employment and source of income as a result of the concerned accident. Others would be persons who had been consigned into a status of a form of disability. The victims of injuries would be very thin on resources as jobless bread winners in need of funds to purchase medicine. The whole process though well intended left the victims emaciated mentally, emotionally and or otherwise. The process became an avenue through which the victims lost their dignity and gave up.
 10. Article 47 of the Constitution guaranteed every person the right to administrative action that was expeditious, efficient, lawful, and reasonable and procedurally fair. Article 48 of the Constitution provided that the State shall ensure access to justice for all persons and, if any fee was required, it shall be reasonable and shall not impede access to justice. Expecting a poor victim who had already been affected financially, physically and emotionally to pick up a fight against a constitutional office funded by the taxpayers to do its work was unfair.
 11. There was a need to rethink the Work Injury Benefits Act compensation framework and probably overhaul it so as to have a legislative framework that resonated with the Fair Administrative Action Act. A framework that was complimented by policies that embraced the spirit of legitimate expectation. Such a policy would be incomplete unless the same was supplemented by a sound psycho-social support structures for those who approached the respondent's office for redress. Only then would it be possible to speak of the discharge of the duty to promote, fulfil and protect the right under articles 3 and 20 of the Constitution to a fast-tracked access to justice, redress and compensation for victims of industrial accidents.

Application allowed.

Orders

- i. *The respondent was found guilty and convicted for the contempt of the order of November 22, 2022.*
- ii. *The respondent to appear in court in person on October 18, 2023 for mitigation and sentencing in open court.*
- iii. *Failure to attend court a warrant of arrest to issue.*
- iv. *Costs to the applicant.*

Citations

Cases

Kenya

1. *Gachege, Christine Wangari v Elizabeth Wanjiru Evans & 11 others* Civil Application 233 of 2007; [2014] KECA 840 (KLR) - (Mentioned)
2. *Mitu-Bell Welfare Society v Kenya Airports Authority & 2 others; Initiative for Strategic Litigation in Africa (Amicus Curiae)* Petition 3 of 2018; [2021] KESC 34 (KLR) - (Applied)
3. *Mutula, Felicity Mutete v Nairobi City County Government (Being the Natural & Presumptive Legal Successor of the Deceased City Council of Nairobi)* Judicial Review Miscellaneous Application 4 of 2019; [2021] KEHC 8458 (KLR) - (Applied)
4. *Republic v County Chief Officer, Finance & Economic Planning, Nairobi City County ex parte Stanley Muturi* Miscellaneous Civil Application 221 of 2016; [2016] KEHC 3265 (KLR) - (Applied)
5. *Teachers Service Commission v Kenya National Union of Teachers (KNUT) & 2 others* Civil Appeal 257 of 2015; [2021] KECA 85 (KLR) - (Applied)
6. *Teachers Service Commission v Kenya National Union of Teachers & 2 others* [2013] eKLR - (Applied)

United Kingdom



Hadkinson v Hadkinson [1952] 2 All ER 56 - (Applied)

Statutes

Kenya

1. Constitution of Kenya articles 3, 10(2)(a); 20; 23(1); 23(3); 24; 47; 48- (Interpreted)
2. Employment and Labour Relations Court Act (cap 8E) section 12(3)(v) - (Interpreted)
3. Fair Administrative Action Act (cap 7L) section 11- (Interpreted)
4. Judicature Act (cap 8) section 5- (Interpreted)
5. Work Injury Benefits Act (cap 236) sections 51,52,52(2);53(2)(e) - (Interpreted)

Advocates

None mentioned

RULING

Background

1. The 2nd interested party subcontracted the 1st interested party to carry works at Barclay's plaza on agreed terms of their contract. During the execution of the said works the 1st respondents employee by the name Evans Lukano fell from 2nd floor to the Mezzanine floor and died as a result of the injuries sustained.
2. The plaintiff/applicant filed an application dated October 27, 2021 seeking that this honorable court be pleased to grant a judicial review order of *mandamus* compelling the respondent to fulfill his public duty.
3. Subsequently, on September 22, 2022 an order for mandamus was issued the respondent/defendant.
4. Despite being duly served with the court order, the respondent has disobeyed and or failed to respect the court order.
5. In *Teachers Service Commission v Kenya National Union of Teachers & 2 others* Ndolo J observed that:-

“The reason why courts will punish for contempt of court then is to safeguard the rule of law which is fundamental in the administration of justice. It has nothing to do with the integrity of the judiciary or the court or even the personal ego of the presiding judge. Neither is it about placating the applicant who moves the court by taking out contempt proceedings. It is about preserving and safeguarding the rule of law.”
6. Article 10(2) (a) of the *Constitution* of Kenya 2010 provides that the national values and principles of governance include: -patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people.
7. According to the applicant, it is unfortunate that section 53(2)(e) of the *Work Injury Benefits Act*, 2007 gives only the Director among other powers to ensure that employees who are injured are compensated in accordance with the provisions the Act.
8. This therefore means that once the matter has been reported to the office of the Director, all other channels to pursue justice are blocked by the principle of *res judicata* and determined on merits by a competent court and therefore may not be pursued further by the same parties;



a cause of action may not be relitigated once it has been judged on the merits; finality.} res judicator}} until the Director makes a determination on the matter.

9. Further section 51 of the Act provides that -:

“ Any person aggrieved by a decision of the Director on any matter under this Act, may within sixty days of such decision, lodge an objection with the Director an objection against such decision.”

10. Section 52 provides:- The Director shall within fourteen days after the receipt of an objection in the prescribed form, give a written answer to the objection, varying or upholding his decision and giving reasons for the decision objected to, and shall within the same period send a copy of the statement to any other person affected by the decision.

11. Section 52(2) provides that an objector may, within thirty days of the Director’s reply being received by him, appeal to the Industrial Court against such decision.

12. From the foregoing sections, the whole process has been made very tedious to victims who may come to the said office to seek justice.

13. It is clear that in the event that the Director refuses/ neglects to act on a complaint, the only option is to seek for an order of mandamus from the court and later on for contempt of court in circumstances where the Director disobeys the court order.

14. Under section 12(3)(v) of *Employment and Labour Relations Court Act* provides that In exercise of its jurisdiction under this Act, the court shall have power to make any of the following orders an award of compensation in any circumstances contemplated under this Act or any written law.

Analysis and Determination

15. Having considered the facts of the case and each party’s argument, I find that the issues for determination before this court are as follows: -

- a. Whether the defendant/respondent should be committed to civil jail for disobeying the orders of this court dated November 4, 2022.
- b. Whether this honorable should asses the applicants claim and give an award of compensation in any circumstances contemplated under the Employment and Labour Act.
- c. Costs.

16. The obligation of every person to obey court orders was summed up in the case of *Hadkinson v Hadkinson* [1952] 2 All ER56 as follows;

“It was the plain and unqualified obligation of every person against or in respect of whom an order was made by a court of competent jurisdiction to obey it unless and until it was discharged and disobedience of such an order would as a general rule result in the person disobeying it being in contempt and punishable by committal or attachment and in an application to the court by him not being entertained until he had purged his contempt.”

17. The rule of law would be in great danger if the courts failed to ensure compliance with court orders. Without enforcement through punishing for contempt of court, the orders of court would remain mere rhetoric not worth the paper they are written on.



18. My considered view is that a judge who fails to enforce his orders through punitive measures to those who disobey them has no business conducting the next trial, for, of what use would be court proceedings whose outcome is of no consequence?

19. I agree with the finding of the court in [Republic v County Chief Officer, Finance & Economic Planning, Nairobi City County ex parte Stanley Muturi](#) where it was held as follows;

“Court orders are not meant for cosmetic purposes. They are serious decisions that are meant to be and ought to be complied with strictly. As was held in [Teacher’s Service Commission v Kenya National Union of Teachers & 2 others](#) Petition No 23 of 2013:

“The reason why courts will punish for contempt of court is to safeguard the rule of law which is fundamental in the administration of justice. It has nothing to do with the integrity of the judiciary or the court or even the personal ego of the presiding judge. Neither is it about placating the applicant who moves the court by taking out contempt of court proceedings. It is about preserving and safeguarding the rule of law. A party who walks through the justice door with a court order in his hands must be assured that the order will be obeyed by those to whom it is directed. A court order is not a mere suggestion or an opinion or a point of view. It is a directive that is issued after much thought and with circumspection. It must therefore be complied with and it is in the interest of every person that this remains the case. To see it any other way is to open the door to chaos and anarchy and this court will not be the one to open that door. If one is dissatisfied with an order of the court, the avenues for challenging it are also set out in the law.

Defiance is not an option.”

20. The ingredients to be proved in a contempt application are well settled. The court in [Felicity Mutete Mutula v Nairobi County Government](#) [2021] eKLR laid down the requirements thus;

“From the foregoing rules, I would say that some of the salient features in an application for contempt of court are as follows:

1. Disobedience of a court order or judgment is a foundation for contempt of court proceedings against the contemnor.
2. Where the contemnor is a company or other corporation, the committal order may be made against any director or other officer of that company.
3. The judgment or order in question must be served on the person required to do or not to do the act in question unless the court expressly dispense with personal service.
4. Where the person required to do or not to do an act is a company or other corporation, a copy of the judgment or order must also be served on the alleged contemnor.
5. Judgments and orders must be served personally.
6. The court may, however, dispense with personal service if it is satisfied that the contemnor had notice of the judgment or order;



- a. By being present when the judgment or order was given or made;
 - b. By being notified of its terms by telephone, email or otherwise.
7. The court may also dispense with personal service if it thinks it is just to do so or may make an order in respect of service by an alternative method or an alternative place.
 8. There shall be permanently displayed on the front copy of the judgment or order served a warning to the person required to do or not to do the act in question that disobedience to the order would be contempt of court punishable by imprisonment, a fine or sequestration of assets. Without this display the judgment or order may not be enforced unless it is an undertaking contained in a judgment or order.
 9. The contempt of court application shall be made by an application notice in the same proceedings in which the judgment or order was made.
 10. The application notice must set out in full the grounds on which the committal application is made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; and must also be supported by one or more affidavits containing all the evidence relied upon.
 11. The application notice and the evidence in support must be served personally on the respondent although the court may dispense with service under paragraph (10) if it considers it just to do so: or may make an order in respect of service by an alternative method or at an alternative place. "
21. These ingredients are summed up in the book *Contempt in Modern New Zealand* as follows;

“There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that: -

 - a. The terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant.
 - b. The defendant had knowledge of or proper notice of the terms of the order.
 - c. The defendant has acted in breach of the terms of the order; and
 - d. The defendant’s conduct was deliberate.”
 22. The respondent cannot claim lack of knowledge of the court order in issue. The order is clear and unambiguous and binding.
 23. The Court of Appeal in *Christine Wangari Gachege v Elizabeth Wanjiru Evans & 11 others* [2014] eKLR recognized that the only statutory basis for contempt of court law in so far as the Court of Appeal and the High Court are concerned is section 5 of the *Judicature Act*.
 24. Section 5 of the *Judicature Act* cap 8 Laws of Kenya provides:



- (1) The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and that power shall extend to upholding the authority and dignity of subordinate courts.
 - (2) An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the High Court.
25. The 2nd interested party at paragraph 9 of the affidavit of Ben Maurice Odhiambo confirms that the matter that is at the heart of what this court is dealing with was reported at Central Police Station Nairobi and subsequently to the Director of Occupational Safety and Health Services as set out in annexure "BMO2".
 26. I am satisfied from the affidavit of service of Benjamin Munguti dated March 15, 2023 that the respondent was also served with the application before me.
 27. Having played their part as required by the Law, the interested parties have nothing to do with the order of orders of November 22, 2022. I find there is no proof that there is a purge of the contempt by the respondent. The court must not preside over matters and issue orders in vain. I find the respondent in contempt of the order of November 22, 2022.

b) – Whether this honorable should assess the applicants claim and give an award of compensation in any circumstances contemplated under the Employment and Labour Act.

28. The Supreme Court in *Mitu-Bell Welfare Society v Kenya Airports Authority & 2 others; Initiative for Strategic Litigation in Africa (amicus Curiae)* (Petition 3 of 2018) [2021] KESC 34 (KLR) confirmed that structural interdicts are part of the remedies that a court could fashion to remedy a violation of fundamental rights and freedoms. The Supreme Court held:

“ Article 23(1) and (3) of the Constitution were the launching pad of any analysis into the place and scope of interim orders in Kenya's human rights enforcement architecture. article 23(3) provided that for a violation of the Bill of Rights the court could grant any appropriate relief including, a declaration of rights, an injunction, a conservatory order, a declaration of legal invalidity of any law that denied, violated, infringed or threatened a right or fundamental freedom in the Bill of Rights that was not justified under article 24 of the Constitution, an order for compensation and an order for judicial review. The list of appropriate reliefs that the court could grant was not exhaustive.

Article 23(3) of the Constitution empowered the High Court to fashion appropriate reliefs, even of an interim nature, in specific cases, so as to redress the violation of a fundamental right.”

29. The 2nd interested party has set out in detail in its submissions a long analysis and content that only the 1st respondent has the capacity to attend to and I so hold.
30. There are a lot of arguments around liability which this court lacks jurisdiction to address its mind to. Only the respondent has the legislative mandate to deal with that as it determines the issue of compensation.
31. This court is in the circumstances hesitant and will not embark on a merit analysis because the applicant has not tendered any evidence that would have helped this court assess damages. That said, the court



- has not lost sight of the need to compensate the applicant. The respondent remains within the court's reach and the court has a duty to ensure that justice is dispensed with.
32. The statute has set a very onerous task on the shoulders of the victims of industrial related accident. As can be gleaned from the above processes, most of the victims have to expend and look for financial support in order to access justice.
 33. The question we should ask ourselves is what entails access to justice as enshrined in our constitution? The reality is that more often than not, the victims seeking justice through the Director have already lost their employment and source of income as a result of the concerned accident.
 34. Others will obviously be persons who have been consigned into a status of this or the other form of disability. The victims of injuries will be very thin on resources as jobless bread winners in need of funds to purchase medicine. The whole process though well intended leaves the victims emaciated mentally, emotionally and or otherwise. The process becomes an avenue through which the victims lose their dignity and give up.
 35. Article 47 guarantees every person the right to administrative action that is expeditious, efficient, lawful, and reasonable and procedurally fair.
 36. Article 48 of the [Constitution](#) provides that The state shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice.
 37. Expecting a poor victim who has already been affected financially, physically and emotionally to pick up a fight against a constitutional office funded by the taxpayers to do its work is unfair. In circumstances that such victims do not have resources to hire an advocate where should they run to seek redress?
 38. There is a need to rethink the [WIBA](#) compensation framework and probably overhaul it so as to have a legislative framework that resonates with the Fair Administrative Action Act.
 39. A framework that is complimented by policies that embrace the spirit of legitimate expectation. No doubt such a policy will be incomplete unless the same is supplemented by a sound psycho social support structures for those who approach the Respondents office for redress.
 40. Only then shall we be able to speak of the discharge of the duty to promote, fulfil and protect the right under articles 3 and 20 of the [Constitution](#) to a fast-tracked access to justice, redress and compensation for victims of industrial accidents.
 41. Section 11 of the [Fair Administrative Action Act, 2015](#) provides as follows:
 11. Orders in proceedings for judicial review
 - (1) In proceedings for judicial review under section 8(1), the court may grant any order that is just and equitable, including an order–
 - (a) Declaring the rights of the parties in respect of any matter to which the administrative action relates;
 - (b) restraining the administrator from acting or continuing to act in breach of duty imposed upon the administrator under any written law or from acting or continuing to act in any manner that is prejudicial to the legal rights of an applicant;
 - (c) Directing the administrator to give reasons for the administrative action or decision taken by the administrator;



- (d) Prohibiting the administrator from acting in a particular manner;
 - (e) Setting aside the administrative action or decision and remitting the matter for reconsideration by the administrator, with or without directions;
 - (f) Compelling the performance by an administrator of a public duty owed in law and in respect of which the applicant has a legally enforceable right;
 - (g) Prohibiting the administrator from acting in a particular manner;
 - (h) Setting aside the administrative action and remitting the matter for reconsideration by the administrator, with or without directions;
 - (i) Granting a temporary interdict or other temporary relief; or
 - (j) For the award of costs or other pecuniary compensation in appropriate cases.
- (2) In proceedings for judicial review relating to failure to take an administrative action, the court may grant any order that is just and equitable, including an order-
- (a) Directing the taking of the decision;
 - (b) Declaring the rights of the parties in relation to the taking of the decision;
 - (c) directing any of the parties to do, or to refrain from doing, any act or thing the doing, or the refraining from the doing, of which the court or tribunal considers necessary to do justice between the parties; or
 - (d) As to costs and other monetary compensation.

Disposition:

42. I hereby find the Director of Occupational Health and Safety guilty and in contempt of the order dated November 22, 2022.

Order:

1. The Director of Occupational Health and Safety is found guilty and convicted for the contempt of the order of November 22, 2022.
2. The Director of Occupational Health and Safety do appear in court in person on October 18, 2023 for mitigation and sentencing in open court.
3. Failure to attend court a warrant of arrest do issue.
4. Costs to the applicant to the applicant.

Dated, signed and delivered at Nairobi this 31st day of July 2023

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J. CHIGITI (SC)

JUDGE

