



**Leopard Rock Mico Limited v Chief Officer Finance, County Government of Meru & 2 others
(Judicial Review E003 of 2021) [2023] KEHC 26236 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26236 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
JUDICIAL REVIEW E003 OF 2021
TW CHERERE, J
NOVEMBER 30, 2023**

BETWEEN

LEOPARD ROCK MICO LIMITED APPLICANT

AND

**THE CHIEF OFFICER FINANCE, COUNTY GOVERNMENT OF
MERU 1ST RESPONDENT**

**COUNTY SECRETARY COUNTY GOVERNMENT OF MERU 2ND
RESPONDENT**

**COUNTY EXECUTIVE MEMBER FOR FINANCE COUNTY GOVERNMENT
OF MERU 3RD RESPONDENT**

RULING

1. On July 20, 2023, this court after hearing advocates for the parties on the applicant's notice of motion dated August 31, 2022, for committal of the 3rd respondent to jail for contempt made the following orders: By
 1. The 3rd respondent's sentencing for contempt of court is suspended
 2. 3rd respondent is granted up to 31st July, 2023 to purge the contempt
 3. Sentence on 21st, September, 2023 if the contempt will not have been purged
 4. Costs of the Notice of Motion dated Notice of Motion dated 31st August, 2022 shall be borne by the Respondents
2. When the matter came up on 21st September, 2023, Respondents' advocate informed the court, that Respondents had paid a sum of KES. 20,000,000/- which payment was subsequently confirmed by Applicant's counsel on 28th September, 2023. On that same day, Applicant's counsel conceded to



Respondents' request for time for the parties to agree on the payment plan for the balance of the decretal sum and the sentence was again put off to 12th October, 2023.

3. Come 12th October, 2023, no payment plan had been filed and the court noting that the Respondents had not demonstrated seriousness and good faith in the way they were handling the matter, ordered that the 3rd Respondent attend court for sentencing on 09th November, 2023.
4. On that day, 3rd Respondent was reported to have accompanied the governor for the impeachment hearing before the Senate and the court reluctantly adjourned the sentencing to 30th November, 2023.
5. This morning, Mr. Ashaba stated that the previous CEC Finance Monica Nthiori has been replaced and could not attend court. He also submitted that he has been unable to reach the new CEC Finance to attend court and asked for time for the new CEC Finance to acquaint himself with the matter and also file a payment plan.
6. Mr. Wanyama opposed the application on the grounds that this matter has taken long and that by their failure to file a payment plan, Respondents have not shown any seriousness in settling the matter even though the court has been gracious to allow numerous adjournments in favour of the Respondents
7. I have considered the court record and submissions made before me today.
8. In the case of *Shimmers Plaza Limited v National Bank of Kenya Limited* [2015] eKLR where the Court of Appeal held as follows;

“We reiterate here that court orders must be obeyed. Parties against whom such orders are made cannot be allowed to trash them with impunity. Obedience of court orders is not optional, rather, it is mandatory and a person does not choose whether to obey a court order or not, for as Theodore Roosevelt, the 26th President of the United States of America once said; “No man is above the law and no man is below it; nor do we ask any man’s permission to obey it. Obedience to the law is demanded as a right; not as a favour. The courts should not fold their hands in helplessness and watch as their orders are disobeyed with impunity left, right and centre. This would amount to abdication of our sacrosanct duty bestowed on us by *the Constitution*. The dignity, and authority of the court must be protected, and that is why those who flagrantly disobey them must be punished, lest they lead us all to a state of anarchy. We think we have said enough to send this important message across.”

9. The record in this matter demonstrates that the 3rd Respondent has shown willful defiance and disrespect towards court orders and continues to refuse to comply in spite of the indulgence on the part of the Applicant and the court.
10. It has not been demonstrated that there is a new office holder in the office of the CEC Finance but even if there was, the orders herein were issued against the officer holding the position of CEC Finance and whether newly appointed or not has no option but to comply and failure to do so is punishable in law.
11. The actions by the Respondents and more particularly the 3rd Respondent leave no doubt in the mind of the court that Respondents and more particularly the 3rd Respondent are undeserving of any further indulgence from this court.
12. Section 28 of the *Contempt of Court Act* No. 46 of 2016 provides that:
 - (1) Save as otherwise expressly provided in this Act or in any other written law, a person who is convicted of contempt of court is liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.



13. The 3rd Respondent having been found guilty of contempt is hereby sentenced to pay a fine of KES. 200,000 and to serve an imprisonment term of 3 months. Since the 3rd respondent is absent, I hereby issue a warrant of arrest to be executed by the Officer Commanding Meru Police Station.

DATED IN MERU THIS 30TH DAY OF NOVEMBER 2023

WAMAE. TW. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

For Applicant - Mr. Wanyama for Manyonge Wanyama & Associates LLP

For Respondents - Mr. Ashaba for Mutuma & Gichuru Associate Advocates

Further Orders.

Mention 18th January, 2024 to confirm compliance and for further orders.

