



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION CASE NO. 536 "A" OF 2009**

**IN THE ESTATE OF M'RIMBERIA KANYI ..DECEASED**

**JOHN KARANI MBERIA .....1<sup>ST</sup> PETITIONER**

**STANLEY BUNDI RIMBERIA.....2<sup>ND</sup> PETITIONER**

**RULING**

1. Chief Inspector Boniface Kiilu has confirmed to court that he came to know about the court order at least on the 11.3.2022 but could not have it implemented because that he fell ill, and has shown to court the medical documents to that effect.
2. He has also apologized that he was unable to have the order enforced even in his absence which could have been done by the office because there exist structures.
3. I am therefore satisfied that the order was brought to his attention but to-date the same has not been complied with. I find that he was in contempt and in fact merit being punished. He has however explained his failure to attend court on 15.3.2022.
4. The officer has however undertaken, in the presence of his commandant that he is willing to enforce the order if given an opportunity.
5. I take it as very disturbing that the officer seeks to additionally justify his failure to enforce the order because of the threats issued to the objector in his presence in the office at the police station. It disturbs me that a Senior Officer of his rank can witness a commission of an apparent offence and uses the same as an excuse not to comply with a court order. What that means is that orders cannot be complied with because the police service fear for breach of peace when it is its duty to keep law and order. This to this court is wholly unacceptable.
6. For today, while I find that the officer deserves to be penalized for his contempt, I give him and his office, a period of 7 days from today to comply with the court order and in default he shall be fined Kshs. 100,000 or be jailed for a period of 14 days at Meru GK prison if he shall have failed to pay the fine.
7. Lastly it is the duty of C.I.P Boniface Kiilu as the officer in charge of the station that the law and order is complied with in full. It is therefore his duty to ensure that when the order is enforced the objector is not threatened or harmed in any way either by persons interested in this cause and at all.

**DATED SIGNED AND DELIVERED THIS 29<sup>TH</sup> MARCH, 2022**

**PATRICK J.O OTIENO**

**JUDGE**