



REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

MISC. CIVIL APPLICATION NO. 384 OF 2011

HARRY GAKINYA T/A

HARRY GAKINYA & CO. ADVOCATES.....APPLICANT

-VERSUS-

RIFT VALLEY AGRICULTURAL

CONTRACTORS LIMITED (RVACL).....RESPONDENT

RULING

1. This application is similar to the application in **Nakuru Misc. Appl. No. 383 of 2011** which is between the same parties. It is dated the 1st February 2018 and 10th April 2019.

The only difference is that on the 11th July 2019 while hearing the **application dated 10th April 2019**, I made certain orders in respect of the application dated 1st February 2018 that

a) The applicant was granted seven days to amend and serve the application with corresponding leave to the respondent to reply. The applicant was further ordered to pay court Adjournment fees.

2. The said orders were not complied with. Instead, the applicant fixed for hearing the application dated 10th April 2019. This in my opinion is taking court orders for granted and blatant impunity.

The respondent urged that this application be dismissed as being sub-judice and an abuse of court process.

3. In response to the disobedience of the court orders by the applicant, Mr. Katithi Advocate for the applicant had nothing to say, stating that he would not respond.

I have been urged to strike out the application dated 1st February 2018 with costs. The Rule of law, being the foundation of the Constitution requires that court orders, its dignity and authority be obeyed and upheld.

Orders issued by a court, be they right or wrong bind all persons or organs, until set aside.

4. Disobedience knowingly therefore renders the courts impotent, and judicial authority a mockery, and may lead to anarchy, and the whole of administration of justice brought to scorn – **Constitutional Petition No. 87/2017, Kenya Human Rights Commission –vs- AG & Another (2018) e KLR.**

To that end, and without hesitation, I proceed to strike out the applicant's application dated the 1st February 2018 with costs to the Respondent.

5. Back to the Notice of Motion dated **10th October 2019**.

I have rendered myself sufficiently why the application ought to be sustained in **Nakuru HCCC Misc. Appl. No. 383/2011**. The same will be imported, adopted and applied to this application. I need not repeat it here.

6. Consequently, the **Notice of motion dated 10th April 2019 is allowed in terms of prayer (a) and (b), with the result that the**

certificate of costs issued on the 7th March 2017 against the Respondent is adopted as a judgment of the court. It is in the sum of Kshs.209,418/=.

The sum shall attract interest at court rates from the 1st February 2018 at 14% per annum.

7. In view of the circumstances pertaining thereto, the applicants shall not be granted costs for the application (Section 27 of the Civil Procedure Act).

It is so ordered

Delivered, signed and dated at Nakuru this 30th Day of January 2020.

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J.N. MULWA

JUDGE