

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

(FAMILY DIVISION)

SUCCESSION CAUSE NO 1577 OF 2006

IN THE MATTER OF THE ESTATE OF MARTIN LUTHER AWUOR (DECEASED)

OWITI AWUOR.....APPLICANT

VERSUS

PRIMROSE MUKASA BAFILAWALA)

VERONICA NJERI AWUOR).....INTERESTED PARTIES

RULING

1. The application subject of this ruling is dated 16th of January 2019. It seeks to have the court review its orders issued on the 6th of December 2018 where the court found the Applicant herein OwitiOwuor to have been in contempt of its orders of 5th October 2018 and fined the Applicant Khs.200,000/=, directed for his arrest and incarceration until he complied with court orders.
2. In the Applicationfor review the applicant contends that he had no prior knowledge of the said order; he denies having been served through his secretary or having received copies via his email address.
3. The Respondent on the other hand contends that the Applicant was aware of the order as the same was sent to him via email and service was effected through his secretary in the Applicant's Mombasa office.
4. Contempt proceedings are quasi criminal and proof of contempt has to be beyond the usual proof on a balance of probabilities.
5. From the arguments of the parties the court will give the benefit of the doubt to the Applicant with a stern warning that the court expects the Applicant who is an advocate of the High Court to comply with the orders issued for as long as the same have not been reviewed. A game of cat and mouse is not for the court.
6. For the above reasonand in view of the settlement by the parties on the issue that was at hand, I vacate the said order.
7. Costs in the costs.

Dated and Delivered in Nairobi on this21ST day of NOVEMBER 2019.

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ALI-ARONI

JUDGE