



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

(Coram: Odunga, J)

HCCC NO. 2 OF 2014

WENDANO MATUU CO LIMITED.....1ST PLAINTIFF/APPLICANT

STEPHEN NDAMUBUKI MULI.....2ND PLAINTIFF/APPLICANT

ONESMUS MUISYO KIMATU.....3RD PLAINTIFF/APPLICANT

-VERSUS-

JOSHUA KIMEU KIOKO.....1ST DEFENDANT/RESPONDENT

JAMES KIOKO KIVUVO.....2ND DEFENDANT/RESPONDENT

JOHN BOSCO NDIINGA.....3RD DEFENDANT/RESPONDENT

SAMUEL MWANZA NZIOKA.....4TH DEFENDANT/RESPONDENT

JUVENALIS MUSYOKI KAVITA.....5TH DEFENDANT/RESPONDENT

MANGU NGOLO.....6TH DEFENDANT/RESPONDENT

ROSE NDANU MUTUA.....7TH DEFENDANT/RESPONDENT

PHILIP MULI MUNYAKA.....1ST INTERESTED PARTY

ORDER

1. On 21st day of January, 2019, I found the respondents in the application dated 24th June, 2014 in contempt of the orders of this court and directed them to personally appear before this Court for the purposes of mitigation and sentencing. Aggrieved by the said decision, the said contemnors sought that the said decision be stayed to enable them have their intended appeal to the Court of Appeal heard and determined.

2. The ruling in respect of the said application was scheduled for today. However, while I was in the process of writing the said ruling I received an undated, unsigned anonymous letter posted by one **Allan Mwanzia** in Nairobi in which it was alleged that some individuals have been boasting of walking scot free.

3. I am not in the habit of acting on such cowardly actions from people who are not brave enough to append signatures to their correspondences. As was held in **Mary Anne Njuguna vs. Joseph Njuguna Ngae Civil Application No. Nai. 195 of 1997**:

“A judge is not concerned with what litigants may brag or boast as he is only concerned with dispensing justice according to law, and any boasts made by litigants ought not to perturb or even bother a Judge.”

4. However, the matter before me is a matter which touches on contempt of court orders. It is therefore quasi-criminal in nature. In order that the parties do not believe that the ultimate decision was informed by the said misplaced and misguided allegations, I hereby direct that further proceedings be undertaken before **Kemei, J.**

5. In the meantime, as the action of the author of the letter in question amounts to a commission of an offence under section 117(c) of the Penal Code, once the author of the said letter is identified, appropriate action will be taken accordingly.

6. The parties to take fresh date in the registry.

7. It is so ordered.

Read, signed and delivered in open Court at Machakos this 19th day of December, 2019.

G V ODUNGA

JUDGE

Delivered in the presence of:

Mrs Nzei for the Defendants/Applicants and holds brief for Miss Wangui for the Interested Parties

Mr Mikwa for Mr Gitonga for the Plaintiffs/Respondents

CA Geoffrey