



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

INSOLVENCY CAUSE NO. 7 OF 2016

SPENCON KENYA LIMITED APPLICANT

(UNDER ADMINISTRATION)

VERSUS

THE CHIEF LANDS REGISTRAR RESPONDENT

RULING

1. This court on **1st March, 2018** issued the following orders:

a. That the Chief Land Registrar do within 7 days hereof register the Decree issued by the E & L Court on 30th May 2017 in ELC Case No. 1121/2015 and if for any reason the Chief Land Registrar cannot register the decree for want of the Deed files at the Inland Lands Registry, the Chief Land Registrar shall cause to be reconstructed the relevant Deed Files after advertisement in the Kenya Gazette of such intention.

b. That the period for advertisement in the Kenya Gazette shall be limited to 14 days and the costs of such advertisement is to be borne by the Administrator/Applicant herein.

c. That upon registration of the Decree issued by the ELC Court on 30th May, 2017, the Administrator/Applicant shall be at liberty to proceed and value then advertise the two properties, namely LR.No. 7794/20 and 7794/19 for sale by public auction.

d. That no order as to costs on the application.

2. As it will be seen the orders were primarily directed at the Chief Land Registrar. The Chief Land Registrar has failed to obey those orders, thereof, and that has provoked the applicant **Spenco Kenya Limited (under administration)**. The application is dated **20th April 2018** by the said applicant.

BACK GROUND

3. **Muniu Thoithi** a licensed insolvency practitioner (**IP**) was appointed as joint administrator of the applicant together with **Kuria Muchiru**. The **IP** effected service on **2nd March 2018** of the order of the court of **1st March 2018** on the Chief Land Registrar. It is deponed that the Chief Land Registrar has failed / neglected and refused to register the decree aforesaid or advertise its intentions to reconstruct the relevant deed file in the event that the same is missing at Inland Land Registry. That the Chief Land Registrar has continued in disobedience of the court order.

4. What is crucial according to the **IP** is that the administration of the applicant's company **lapses** on the **31st May 2018**. It is deponed that the obedience of the order is essential in achieving the object of the administration of the applicant's company.

5. By application dated **20th April 2018**, the applicant seeks the Chief Land Registrar be found in contempt of Court for disobeying the orders of **3rd March 2018**.

ANALYSIS AND DETERMINATION

6. Although the application was served upon the Chief Land Registrar, he did not attend court nor oppose the application. **Section 4(a) of the Contempt of Court Act No. 46** provides:

“civil contempt which means wilful disobedience of any judgement, decree, direction, order, or other process of a court or wilful breach of an undertaking given to a court.”

7. The object of the **Act No. 46** is stated in **Section 3** as follows:

“3. The objectives of this Act are to-

- a. Uphold the dignity and authority of the court;**
- b. Ensure compliance with the directions of court;**
- c. Ensure the observance and respect of due process of law;**
- d. Preserve an effective and impartial system of justice; and**
- e. Maintain public confidence in the administration of justice as administered by court.”**

8. **Section 28 (1) of Act No. 46** provides punishment for contempt. It is clear that the Chief Land Registrar is not intent on obeying the Court Order of **1st March 2018**. The Chief Land Registrar therefore, is in contempt of this court.

9. Accordingly, the Chief Land Registrar is hereby **committed to prison** for **30 days** for disobeying the order of this court dated **1st March 2018**. It is so ordered.

DATED, SIGNED and DELIVERED at **NAIROBI** this **22nd** day of **May** 2018.

MARY N. KASANGO

JUDGE

Ruling read in open court in the presence of

Court Assistant.....Sophie

.....for the Applicant

.....for the Respondent