



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL MISC. APPL. NO. 74 OF 2016

EUNICE MAKORI & HELLEN MAKONE

(The administrators & personal representatives of

Estate of Johnson Onduko Makori.....APPLICANTS

- V E R S U S -

MR. TOROME SAITOTI.....1ST RESPONDENT

MR. JOSEPH K. BOINNET.....2ND RESPONDENT

RULING

1. The applicants herein namely, Eunice Makori & Hellen Makone took out the summons dated 5th May 2017, whereof they applied for leave to file an application seeking for the following orders:

a. THAT the principal secretary Ministry of Finance, the 1st respondent, be ordered to comply with orders of the court issued on 30th May 2016, compelling the Principal Secretary, Ministry of Defence to pay the ex-parte applicants (Suing as the administrator and personal representatives of the estate of JOHNSON ONDUKO MAKORI) a sum of kshs.17,257,930.00) being the decretal amount inclusive of costs and interests to settle the judgment in Nairobi HCC 160 of 2009.

b. THAT the 1st respondent be cited for contempt of court and be committed to jail and to pay such a fine as the court may deem just and fit to impose to meet the ends of justice.

c. THAT the 2nd respondent be ordered to effect the arrest of the 1st respondent failure to which he himself will be cited for contempt and be committed to jail and to pay such a fine as the court may deem just and fit to impose to meet the ends of justice.

d. Such other remedy as this honourable court may deem fit to grant.

The summon is supported by the affidavit of Eunice Makori. The summon is ex parte in its nature.

2. I have considered the grounds stated on the face of the summons and the facts deposed in the verifying affidavit. Basically the applicants are seeking for leave to commence contempt of court proceedings.

3. In determining such an application, the court will consider whether or not the applicants have shown a

prima facie case.

4. In this case, the applicants have shown that they have obtained judgment against the Attorney General in the sum of kshs.17,257,930.00/=

5. There is no evidence that the judgment debtor has appealed against the aforesaid judgement.

6. It is also apparent that the applicants have demanded to be paid but the accounting officers have ignored to satisfy the decree, thus prompting the plaintiffs to obtain mandatory orders of injunction directing the Principal Secretary, Ministry of Defence to settle the decree. Again the permanent secretary has failed to comply with the court order.

7. The applicants have now approached court seeking for leave to commence contempt of court proceedings to cite and punish the permanent secretary for contempt.

8. I am convinced that the plaintiffs have shown that they have a prima facie case. Consequently, I grant the applicants leave to commence the aforesaid proceedings as sought in prayers a, b, and c of the summons within 14 days from the date hereof.

9. Costs shall await the outcome of the anticipated contempt proceedings.

Dated, Signed and Delivered in open court this 16th day of June, 2017.

J. K. SERGON

JUDGE

In the presence of:

..... for the Applicant

..... for the Respondent