



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL APPEAL NO. 547 OF 2011**

**GODFREY KIMANI MWANGI.....APPELLANT**

**- V E R S U S -**

**KANORERO WENDANI CO. LIMITED.....1<sup>ST</sup> RESPONDENT**

**KIMANI KURIA..... 2<sup>ND</sup> RESPONDENT**

**ANDREW GIKUYU .....3<sup>RD</sup> RESPONDENT**

**ANASTACIA WANJIRU .....4<sup>TH</sup> RESPONDENT**

**RULING**

1) Godfrey Kimani Mwangi, the appellant herein took out the motion dated 27,6,2017 in which he sought for the following orders:

***a) THAT this application be and is hereby certified urgent.***

***b) THAT this honourable court be pleased to cite for contempt the following; Kanorero Wendani Ltd, Kimani Kuria, Andrew Gikuyu and Anastacia Wanjiru for contempt of court order dated 9<sup>th</sup> May 2-015 herein.***

***c) THAT this honourable court be pleased to punish for contempt the following; Kanorero Wendatni Ltd, Kimani Kuria, Andrew Gikuyu and Anstacia Wanjiru for contempt of court order dated 8<sup>th</sup> May 2015.***

***d) THAT the costs of this application be in the cause.***

2) The motion is supported by the affidavit of the appellant. The respondents filed the affidavit of Andrew Macharia Gikuyu to oppose the motion. When the motion came up for interpartes hearing, learned counsels appearing in this matter recorded a consent order to have the motion disposed of by written submissions.

3) I have considered the grounds stated on the face of the motion plus the facts deponed in the affidavits filed for and against the application. I have further taken into account the rival written submissions. The appellant has submitted that the respondents have blatantly disobeyed the court orders issued on 8<sup>th</sup> May 2015. It is averred that the aforesaid orders were served and the respondents have gone ahead to write to the tenants advising them to disregard the court orders. The respondents have urged this court to find the appellant's motion to be vexatious, incompetent and malicious. It is also argued that the appellant is not a

director of Kanorero Wendani Co. Ltd and cannot therefore purport to appoint agents on its behalf. It is also argued that the appellant has failed to prove that the respondents have evicted, harassed, intimidated or interfered with the suit premises known as L.R no. plot no. Nairobi/Block 36/329/VII, Kanorero Wendani House, Eastleigh Section 7. The respondents also pointed out that the letter complained of merely questioned the authority of the appellant to appoint an agent.

4) The order which is alleged to have been breached is the first order issued on 8<sup>th</sup> May 2015 in which the respondents were restrained from evicting, harassing, intimidating or interfering with the occupation of House no. C2 in respect of the suit premises. The main complaint is that the respondents are alleged to have written letters to tenants in respect of the suit premises advising them to disregard the court order issued on 8.5.2015. The question which has to be determined is whether or not the respondent's conduct amounted to contempt of the court orders issued on 8<sup>th</sup> May 2015. I have carefully interrogated the contents of the aforesaid letter and I am satisfied that the letter was written in response to the letter written by Kurauka & Co. Advocates on behalf of Kenstate Valuers Ltd which was appointed as the appellant's agents for purposes of management and collection of rent. In the same letter, the power of the appellant to appoint agents on behalf of Kanorero Wendani Co. Ltd was questioned. With respect, I agree with the submission of the respondents that there is no iota of evidence given to show how the respondents breached this court's orders.

5) The letter questioning the capacity of the appellant to make the appointment of agents on behalf of the 1<sup>st</sup> respondent cannot by itself amount to contempt on the part of the respondents.

6) In the end, I find no merit in the motion dated 27.6.2017. The motion is ordered dismissed with costs to the respondents.

Dated, Signed and Delivered in open court this 8<sup>th</sup> day of December, 2017.

**J. K. SERGON**

**JUDGE**

In the presence of:

..... for the Appellant

.....for the Respondent