



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**PETITION NO. 7 OF 2010**

SILAS KINYUA M'MWETI.....PETITIONER

**VERSUS**

THE DISTRICT LAND ADJ. & SETTLEMENT OFFICER

IGEMBE DISTRICT.....1ST RESPONDENT

THE DIRECTOR, LAND ADJUDICATION AND SETTLEMENT .....2ND RESPONDENT

THE DEMARCATION OFFICER AKIRANGONDU "A"

ADJUDICATION SECTION.....3RD RESPONDENT

**AND**

M'MUJURI THIRANGE & 20 OTHERS.....INTERESTED PARTIES

**R U L I N G**

1) This application is dated 27/07/2016 and seeks orders:-

***(1) THAT the Honourable Court shall be pleased to certify this Application of utmost urgency and to hear it on priority basis and Exparte and in the first instance.***

***(2) THAT the Petitioners herein above be held in contempt of Court for violating the consent orders of status quo as recorded on the 1st December, 2010 before this Honourable Court.***

***(3) THAT this Honourable Court be pleased to commit the Petitioner SILAS KINYUA M' MWETI to civil jail for a term not exceeding 6 months for being in contempt of Court orders.***

***(4) THAT the cost be provided for.***

2) The application is supported by the Affidavit of GEOFFREY MANYORE and has the following grounds.

***(1) THAT the application for orders of temporary Injunction pending the hearing and determination of the suit dated 18th November, 2010 was disposed off vide a consent order dated 1st December, 2010 wherein the parties were ordered to maintain status quo.***

***(2) THAT the Petitioner has trespassed into the interested parties parcels of land in total disregard of a Court order dated 1st December, 2010.***

***(3) THAT the Petitioner has started construction of a stone house on the portion of land number***

4125 within Akirangodu "A" Adjudication Section registered in the name of Geoffrey Manyore.

(4) ***THAT*** construction of a stone house when there are orders of status quo is extremely arrogant of the petitioners and the same should be halted until the petition is heard and determined.

(5) ***THAT*** the acts of the Petitioner despite a consent order can only be construed as contentious in the circumstances.

(6) ***THAT*** the Petitioner being party to the Court orders recorded by consent had no reason whatsoever to go back on his promise and interfere with the rights of the interested parties and it is clear he disregarded the Court orders.

(7) ***THAT*** it is in the interest of justice that this Honourable Court holds the petitioner in contempt as a contrary finding will mean he benefits from a blatant violation of Court orders.

(8) ***THAT*** the applicant interested parties have suffered and continued to suffer harm that Court orders were meant to stop.

(9) ***THAT*** Court orders should not be issued in vain.

3) On 30/08/2016, the parties proffered a Consent for adoption as an order of the Court. The Consent was in the following terms:-

By Consent:

***1. The Petitioner/Respondent is hereby granted 14 days to file a Replying Affidavit to the Application dated 27th July, 2016.***

***2. That upon filing of the Replying Affidavit, the parties filed their Written Submissions to the aforesaid application within 14 days each with the Applicant starting.***

4) The Consent dated 30/08/2016 is adopted as an order of this Court.

5) Costs shall be in the cause.

6) It is so ordered.

**DELIVERED IN OPEN COURT AT MERU THIS 30<sup>TH</sup> DAY OF AUGUST, 2016 IN THE PRESENCE OF:-**

CC: Lilian /Daniel

Miss Mutinda for the Interested Parties

Mutembei h/b Miss Ungu for the Petitioner

Kimathi for the Respondent

**P.M. NJOROGE**

**JUDGE**