



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL AND ADMIRALTY DIVISION

CIVIL SUIT NO. 590 OF 2010

ZENITH STEEL FABRICATORS LIMITED ::::::::::::::::::::::::::::::: PLAINTIFF

-VERSUS-

TRIPPLE EIGHT CONSTRUCTION ::::::::::::::::::::::::::::::: 1ST DEFENDANT

NJUCA CONSOLIDATED COMPANY LTD. ::::::::::::::::::::::: 2ND DEFENDANT

R U L I N G

INTRODUCTION

1. The application before the court by the Plaintiff/Applicant is for the issuance of warrants of arrest against **Hon. Nderitu gachagua** after his failure to attend this court on 28th July, 2015 as ordered and directed by this court on 12th June 2015, and pursuant to the Notice of Motion dated 15th October, 2015.
2. The Notice of Motion dated 15th October, 2014 seeks to compel the attendance to court by Hon. Nderity Gachagua, referred to herein as the “**Respondent**”, a director and surety of the 1st Defendant/Judgment Debtor herein, and show cause why he should not be committed to Civil Jail for a period of not exceeding 6 months for refusing to honour the terms of the consent letter dated 18th October, 2013 and filed in Court on 6th November, 2013.
3. The further prayer is that in default of such an attendance, the court be pleased to issue warrants for the arrest of Hon. Nderitu Gachagua, to be executed by the Court Bailiff with assistance of the Inspector General of Kenya Police Service.
4. The said orders were granted by the Court. The Court directed that the orders be served upon Hon. Nderitu Gachagua by advertisement in a Daily Newspaper. Mr. Omuga for the Applicant submitted that the said service was done as directed by the court on 12th June, 2015 and Hon. Nderitu was obligated to attend Court on 28th July, 2015. However, he failed to attend the Court and Counsel for the Applicant now prays that the court could be pleased to issue warrants for the arrest of Hon. Nderitu Gachagua. Mr. Mahugu, Counsel for the 1st Respondent submitted that he had nothing to submit as he acted for the company and not for Hon. Nderitu Gachagua.
5. I have carefully considered the application to issue warrants of arrest against the Respondent. I will note for the record that more than once this court has called upon the Respondent to attend the Court but to no avail. The orders given by the Court on 12th June 2015 were served upon the Respondent to come to

Court on 28th July 2015, but he failed without providing any reason. Before I proceed further, it must be noted that the Respondent is the Honourable Governor of the Nyeri County, and is by virtue of his position, a promulgator and respecter of law and lawful proceedings. It is therefore disheartening that he would be in the forefront of people who are generally called law breakers. Neither is it conceivable that he would encourage any kind of disobedience to the law or to any lawful process. But that is what he has done. He has shown utter contempt to the orders of this court, to the law and the Constitution of the country, and has brought disrepute to his title of “honourable”. I believe the Applicant is entitled to the orders sought, which I have no hesitation granting as follows:-

- a. ***Warrants for the arrest of Hon. Nderitu Gachagua hereby issues, to be executed by the Court Bailiff with assistance of the Inspector General of the Police.***
- b. ***Upon the said arrest, Hon. Gachagua shall be brought to court on 18th September 2015 to show cause why he should not be committed to civil jail for a period not exceeding 6 months for refusing to honour the terms of a court order dated 6th November 2013.***
- c. ***The Respondent Hon. Gachagua shall pay all the costs occasioned by this application including costs for advertisements and of summons.***

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI

THIS 31ST DAY OF JULY 2015

E. K. O. OGOLA

JUDGE

PRESENT:

M/s Rashid for the Applicant/Respondent

Mr. Mahugu for the Respondent/Applicant

Teresia – Court Clerk