

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

CIVIL CASE NO. 76 OF 2013

ZUBEIDA SAID ABDALLAHPLAINTIFF/RESPONDENT

- V E R S U S -

MASOUD MOHAMED SHEE (alias)

MOHAMED SUDI SHEIKH DEFENDANT/APPLICANT

RULING

[1] Masoud Mohamed Shee (alias) Mohammed Sudi Sheikh filed a notice of motion dated 31st March, 2014 praying for stay of judgment or order made on 21st day of February 2014 pending the hearing of this application.

[2] On 4th April, 2014, this court granted a 60 day stay and fixed this application for hearing on 4th June 2014. On the said date both parties were represented by Counsel. When this matter came for hearing on 4th June, 2014 the Counsel for the applicant Mr. Aboubakar told the court that the plaintiff Zubeida Said Abdalla had demolished the two storey building in the suit premises despite the 60 day stay aforesaid.

[3] Ms. Abuodha her Counsel said that she had no knowledge of the same and asked for time to be properly instructed on the same. This matter was therefore set for mention on 17th June 2014 when the court would decide the fate of the plaintiff in regard to contempt of court.

[4] On 17th June, 2014, Ms. Abuodha reported that what was said by Mr. Aboubakar was true. That she had warned her client about it but her client would not heed the Counsels' warnings.

That Ms. Abuodha was contemplating withdrawing from the case. Mr. Aboubakar pleaded with the court to issue a warrant of arrest against the plaintiffs. He urged the court to use Sec. 3A of the Civil Procedure and Section 29 of the Environment and Land Court Act to charge and imprison the plaintiff.

[5] Having heard what Mr. Aboubakar Counsel for the applicant has said and what Ms. Abuodha for the plaintiff has said, I make the following order.

That the plaintiff shall appear in court on the 4th day of July, 2014 to show cause why she should not be committed to civil jail for disobeying court orders.

Dated and delivered in open Court at Mombasa this 20th day of June, 2014.

S. MUKUNYA

JUDGE

20.6.2014

In the presence of:

Miss. Mwanakitina Advocate for the defendant/applicant

Ms. Abuodha Advocate for the plaintiff/respondent