



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

**CIVIL DIVISION**

**MISC APPLICATION NO 426 OF 2013**

**RACHEL MORAA TURUNGI.....APPLICANT**

**VERSUS**

**1. RUTH SALLY LUMADI KIDAKE**

**2. JUSTUS MATUNDURA**

**(T/A JUMBO LINK AUCTIONEERS).....RESPONDENTS**

**R U L I N G**

1. The Applicant herein is the erstwhile tenant of the 1<sup>st</sup> Respondent in certain residential premises. Apparently a distress for rent was levied against her in the course of which she was evicted from the premises and her household goods taken by the auctioneer (2<sup>nd</sup> Respondent). The Applicant made a complaint to the **Rent Restriction Tribunal** at Nairobi (the **Tribunal**).

2. On 1<sup>st</sup> November 2011 the Tribunal ordered as follows –

“1. ...

2. That the ...Landlord, her servants, employees and/or agents is hereby restrained from evicting, harassing the...Tenant and/or in any manner interfering with her tenancy pending the hearing of the application inter partes.

3. That the...Landlord is hereby ordered to return the television set and DVD player that she has admitted having taken away from the premises forthwith.

4. That the ...Landlord to be served within the next 7 days.

5. That the...Tenant to pay to the ...Landlord the rent arrears of September and October 2011 by 10.11.2011.

6. That the OCS, Rongai Police Station do ensure compliance of these orders.

7. ....”

3. On 2<sup>nd</sup> December 2011 the Tribunal made further orders as follows -

“1. ..

**2. That the Respondents by themselves, their servants, employees and or agents are hereby restrained form attaching, auctioning and/or in any other manner dealing with the household goods belonging to the...Tenant that they confiscated pending the hearing of the application inter partes.**

**3. That the ...Auctioneers, Jumbo Link Auctioneers, are hereby ordered to return the... Tenant’s household goods that they carried away on 1.12.2011 forthwith.**

**4. That the OCS, Ongata Rongai, do ensure compliance of these orders....”**

4. The Applicant says that the Respondents did not obey the said orders of the Tribunal, and so she came to this court by notice of motion dated 18<sup>th</sup> April 2013 seeking the authority of this court to compel the Respondent to obey the aforesaid orders of the Tribunal. On 29<sup>th</sup> July 2013 this court directed the Respondents to comply with the aforesaid orders of the Tribunal within ten (10) days and in default the Applicant to have liberty to institute contempt proceedings.

5. The Applicant subsequently filed **notice of motion dated 12<sup>th</sup> August 2013** seeking the main order that the Respondents be committed to civil jail for disobedience of the order of this court of the 29<sup>th</sup> July 2013. That application is the subject of this ruling. It is brought upon the grounds that the Respondents still have not complied with the orders of the Tribunal notwithstanding that they were served with the order of this court of 29<sup>th</sup> July 2013. The application is supported by a supporting affidavit sworn by the Applicant.

6. Despite service upon them of the present application the Respondents have not filed any papers in response. The application was therefore heard *ex parte* on the 18<sup>th</sup> June 2014. I have considered the submissions of the Applicant who was acting in person. I have also perused the court record.

7. The formal order of this court of 29<sup>th</sup> July 2013 was issued on the same day by the Deputy Registrar. That order, with a penal notice duly endorsed thereon, was served upon each of the Respondents at their respective offices within the City of Nairobi on 1<sup>st</sup> August 2013. There is an affidavit of service to that effect sworn by one NELSON ONDIEKI, a duly authorised process server of this court, filed in court on 5<sup>th</sup> August 2013.

8. The present application was served upon the Respondents at their respective offices on 19<sup>th</sup> August 2013. See the affidavit of service by the same process server, NELSON ONDIEKI, sworn on 19<sup>th</sup> and filed on 20<sup>th</sup> August 2013. The Applicant has sworn in the supporting affidavit that the Respondents did not comply with the order of this court of 29<sup>th</sup> July 2013 within the time stipulated or at all.

9. The Respondents have not bothered to respond to the present application. They are in contempt of not only of the orders of the Tribunal but also of the order of this court of 29<sup>th</sup> July 2013. I am satisfied that they were duly and personally served with that order with a penal notice endorsed thereon. I find that the Respondents are in contempt of those orders of the court.

10. I direct that the two Respondents be arrested by the court bailiff of this court and be brought to court as soon as they are arrested so that the court may meet out the necessary punishment against them. The Applicant shall have the costs of this application. Those will be the orders of the court.

**DATED AND SIGNED AT NAIROBI THIS 16<sup>th</sup> DAY OF JULY 2014**

**H.P.G. WAWERU**

**JUDGE**

**DELIVERED THIS 18<sup>TH</sup> DAY OF JULY 2014**