



REPUBLIC OF KENYA



**Farah & 2 others v Adan (Environment & Land Case E131 of 2021)
[2022] KEELC 2407 (KLR) (26 April 2022) (Ruling)**

Neutral citation: [2022] KEELC 2407 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E131 OF 2021
LC KOMINGOI, J
APRIL 26, 2022**

BETWEEN

HUSSEIN AHMED FARAH 1ST PLAINTIFF

HUSSEIN UNSUR MOHAMED 2ND PLAINTIFF

MOHAMED ABDIKADIR ADAN 3RD PLAINTIFF

AND

YUSUF ABDI ADAN DEFENDANT

RULING

1. On the April 21, 2021 this court granted the following orders:-
 - “(a) That in the interim an order is issued that the status quo ante be restored at the premises commonly known as “Bangkok Shopping Mall” erected on Land Reference Number 36/VII/405 situated in Eastleigh within Nairobi area, more specifically that possession control and management over the said property be reinstated to both the Plaintiffs and the Defendant.
 - (b) That the Regional Police Commander, Nairobi County to ensure that compliance of the orders herein”.
2. Upon being served with these orders, the Defendant neglected and/or failed to comply. The Plaintiffs then came back to court vide the notice of motion dated June 26, 2021 seeking to have the defendant committed to civil jail for contempt of the orders of April 21, 2021.
3. Upon hearing the application this court was of the view that the said orders were served on the Defendant late and outside the three day period in contravention of order 40 rule 4(3) of the Civil Procedure Rules. This court declined to cite the Defendant for contempt but directed that the



Defendant renders an account of the rent collected from the last six years. He was given thirty (30) days to do so.

4. This matter was mentioned on February 8, 2022, March 8, 2022 and March 28, 2022 and on these occasions the Defendant had not complied with the directions of 25th November 2021.
5. On the March 28, 2022, the Plaintiffs' counsel made an oral application to the effect that the Plaintiffs be allowed to collectively manage and control the suit premises by collecting rent and give the Defendant his share. This application was opposed by Mr. Kibet for the Defendant.
6. This court notes with a lot of concern the Defendant's reluctance to comply with this court's orders.
7. In order to progress this matter further, I hereby allow the Plaintiffs' application in the following terms:-
 - a. That the rent from the suit premises be deposited in a joint interest earning account in the names of the advocates for the Plaintiffs and advocates for the Defendant with effect from June 1, 2022 pending the hearing and determination of this suit.
 - b. That parties do comply with order 11 of the Civil Procedure Rules.
 - c. That the matter do come up before the Deputy Registrar for pretrial conference on 15th June 2022

It is so ordered.

DATED, SIGNED AND DELIVERED NAIROBI THIS 26TH DAY OF APRIL 2022.

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L. KOMINGOI
JUDGE

In the presence of:-

.....Advocate for the Plaintiffs

.....Advocate for the Defendant

.....Court Assistant

