

REPUBLIC OF KENYA

High Court at Meru

Environmental & Land Case 21 of 2013

JAMES KABURU.....PLAINTIFF

VERSUS

MACARIUS K. IKIARA.....RESPONDENT

RULING

The matter was heard interpartes on 26.2.2013. I have heard submissions by both advocates: For the applicant and for the respondent. Both the applicant and the respondent are in Court.

This is an application which has been certified urgent. The main prayer under item 2 of the Notice of Motion dated 18th February, 2012 seeks that this honourable Court “be pleased to grant the plaintiff/applicant leave to commence contempt of Court proceedings against the defendant Macarius K. Ikiara for his disobedience of Court Orders issued on 23.1.2013 and 12.2.2013.” Prayers 3, 4, and 5 are ancillary to prayer 2.

The respondent has denied disobedience of a Court Order and has claimed that what he has put up by way of construction is on his suitland and not on LR. No. Nkuene/Taita/2593. It is my view that he should be given a chance to argue his case when he is showing cause why he should not be committed to a jail term not exceeding 6 months for disobedience of this Court's Orders dated 23.1.2013 and on 12.2.2013. If he is constructing on land other than LR. No. Nkuene/Taita/2593, then he will not be in contempt of court.

In the circumstances, I grant the applicant's prayers 2, 3, 4 and 5. Costs will be in the cause.

The respondent, Macarius K. Ikiara, who is in Court, is ordered to attend this Court and show cause why he should not be committed to a jail term for disobedience of the orders of this Court on 8th May, 2013 at 10.00 a.m.

Written and delivered in **Open** court this 26th day of February, 2013.

**P. M. NJOROGE
JUDGE**