



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
HIGH COURT CIVIL CASE NO. 13 OF 2013

CANNON ASSURANCE (K) LIMITED.....PLAINTIFF

- VERSUS -

- 1. OMAR KUTO**
- 2. MOHAMED JUMA MOHAMED**
- 3. VUMBI MWADOMBO**
- 4. NICHOLAS MRIMA**
- 5. NDONGA NDZINGA (and all other unknown persons
unlawfully dealing and or trespassing on
Plot. CR. NO. 5692, Plot No. 1589/13/III/MN}DEFENDANTS**

IN THE MATTER OF CONTEMPT OF COURT PROCEEDINGS

BETWEEN

CANNON ASSURANCE (K) LIMITED PLAINTIFF/APPLICANT

AND

OMAR KUTO1ST DEFENDANT/RESPONDENT

VUMBI MWADZOMBO3RD DEFENDANT/RESPONDENT

RULING

[1] Leave to file this application was granted on 21st May 2013. The application was served on 1st

and 3rd respondents on 6th June 2013. The 1st and 3rd respondents filed no reply at all. The application is therefore unopposed.

Miss. Adagi for the applicant asks for prayer No. 1 of her application. Prayer No. 1 requests the Court to cite the 1st and 3rd respondents for contempt of court orders issued on 24th January 2013.

[2] Those orders were restraining the first and third respondents from dealing with land No. CR. 5692 Plot No. 1589/13/111 Mainland North. The order was served personally to the 1st and 3rd respondents. It was also served on their lawyers. The application was also advertised in the two local dairies in two successive days. That is, on the Standard Newspapers on 26th January 2013 and Daily Nation of 28th January 2013. There is no doubt that the 1st and 3rd plaintiffs were aware because after service, they instructed an advocate.

[3] In blatant disregard of the Court order of 24th January 2013 the 1st and 3rd respondents entered the suit property and assaulted the guards Kaone Leporua and Letimus Lolkiereri alias Denis. The said guards swore an affidavit sworn on 14th May 2013 and attached their report of the assault to Kijipwa Police Station vide OB No. 11/233/2013. They also attached a letter from the police station requesting Medical Officer of Health Coast General Hospital to treat the said guards. The medical report of the Coast General Hospital is attached to their affidavits.

[4] The applicant states that the 1st and 3rd respondents have in utter disregard of the Court orders entered the land several times. They have attempted to subdivide the land and to give it to their group of hooligans. Photographs of the 1st and 3rd defendants on the farm and the car KBM 714E of the first defendant on the farm a tractor ploughing the newly allocated land by the 1st and 3rd respondents are annexed. There is also a photograph of the first defendant with persons holding crude weapons pangas and machetes.

[5] All these illegal entries have been reported to Kijipwa police station vide OB numbers OB13/22/2/13, OB11/23/3/2013, OB24/30/4/ and nothing has been done by Kijipwa police station.

It is strange that an assault that was reported to Kijipwa police station by the guards of the applicant was not acted upon. This is inspite of the fact that the assailants were known and there is a medical report. This report was obtained after the victims were referred to hospital by the police!

[6] It is no wonder that the Counsel for the applicant says that she believes her client the applicant, on its assertion that the OCS Kijipwa is interested in the suit property, so when he is asked to help in enforcing the Court order of 24th January 2013 he says that this is a civil matter.

[7] From the submissions of Miss. Adagi Learned Counsel for the applicant, and from the affidavit of John Nganga, the Finance Director of the applicant and also from Kaone Leporua and Letimue Lolkiereri alias Denis the security guards who were assaulted by the respondents and from the guard's medical reports, I am without doubt convinced that the respondents are in contempt of Court. The application dated 27th May 2003 is allowed in terms of prayer 1. This court therefore cites them for contempt. I do order that a warrant for arrest do issue to OMAR KUTO and VUMBI MWADZOMBO for contempt of Court orders dated 24th January 2013. I do direct that this order be directed to P.P.O Coast region who will ensure that the orders are executed through D.C.I.O. Kilifi and OCS Kijipwa Police Station. The said contemnors be brought to Court to answer charges for contempt as aforesaid. The said officers should ensure that the court orders of 24th January 2013 are complied with by arresting any person who tries to flout the said Court order

Dated and delivered in open Court at Mombasa this 26th day of June 2013.

S.N. MUKUNYA

JUDGE

In the presence of:

..... **for plaintiff**

.....**for defendants**