



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**  
**CIVIL SUIT 6 OF 2012**

**ESTHER NGELEL.....PLAINTIFF**

**VERSUS**

**DANIEL KIBET NGELEL.....1<sup>ST</sup> DEFENDANT**

**PHILIP KIPLIMO NGELEL.....2<sup>ND</sup> DEFENDANT**

**JOSEPH KIPRUTO NGELEL.....3<sup>RD</sup> DEFENDANT**

**RULING:**

The brief facts of the case are that on the 2<sup>nd</sup> of April, 2012 the Applicant obtained the orders as set out hereunder against all the Respondents;

1. This application be and is hereby certified as urgent and its service be and is hereby dispensed with in the first instance.
2. The Defendant/Respondent by themselves, the agents and/or servants and/or workers and/or any other person claiming and/or acting on their behalf be and are hereby restrained by means of an order of temporary injunction from trespassing and/or constructing and/or dealing in any way on the subject land parcel number NANDI/NDALAT SETTLEMENT/188 pending the interparties hearing and final determination of this application.
3. The Defendant/Respondent by themselves, the agents and/or servants and/or w orders and/or any other person claiming and/or acting on their behalf be and are hereby restrained by means of an order of injunction from trespassing and/or constructing and/or dealing in any way on the subject land parcel number NANDI/NDALAT SETTLEMENT/188 pending the interparties hearing and final of the main suit.
4. Costs be in the cause.

The said Order was served upon the 2<sup>nd</sup> Defendant by the court process-server, and the 2<sup>nd</sup> Defendant confirmed under cross-examination that he as indeed served with the said Order which had a penal clause.

The 2<sup>nd</sup> Defendant stated in evidence that he read and understood the Order but did not comply

with the same.

From the evidence adduced, I am satisfied that the 2<sup>nd</sup> Defendant is in contempt of the Court Orders. Court Orders must be obeyed and when contempt of court has been proved the offender must be punished.

The ruling for today is for the sentencing of the 2<sup>nd</sup> Defendant and it is hereby ordered;

1. That the 2<sup>nd</sup> Defendant do pay a fine of Kshs 50,000/= in default, the 2<sup>nd</sup> Defendant be arrested and committed to civil jail for a period of two months at Eldoret G.K Prison.
2. The costs of the incarceration of the 2<sup>nd</sup> Defendant to be borne by the Applicant.
3. The costs of this application to be borne by the 2<sup>nd</sup> Respondent.

**Dated and delivered at Eldoret this 22<sup>nd</sup> day of June 2012.**

**A.MSHILA**

**JUDGE**

Coram: Before Hon A.Mshila J

CC: Andrew

Counsel for the Applicant Kiboi for Applicant

2<sup>nd</sup> Defendant in person.

**A.MSHILA**

**JUDGE**