



**Momanyi v Aegis Services (K) Limited (Cause 1106 of 2010)
[2012] KEHC 971 (KLR) (Civ) (16 November 2012) (Ruling)**

VICTOR NYAUMA MOMANYI V AEGIS SERVICES (K) LIMITED[2012]eKLR

Neutral citation: [2012] KEHC 971 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CAUSE 1106 OF 2010

ON MAKAU, J

NOVEMBER 16, 2012

BETWEEN

VICTOR NYAUMA MOMANYI CLAIMANT

AND

AEGIS SERVICES (K) LIMITED RESPONDENT

RULING

1. The Application before me is the Notice of Motion by the Claimant dated 10-3-2011 seeking leave to cite the Respondent for contempt of court for disobeying court orders dated 22-9-2010. It also seeks orders to commit the Respondent’s agents Gertrude Obinchi and Leann Coetzer to prison for disobeying the aforesaid court order.
2. The application was prosecuted ex-parte by Mr. Mogaka on 16-3-2011. He submitted that the Respondent violated the Court Order by deducting the Claimant’s salary by half. That the last straw came by way of letter dated 8-2-2011 which terminated the Claimant’s employment. That the Respondent was ceasing operation in Kenya hoping to run away from the jurisdiction of this Court.
3. I have perused the affidavit, statements and the various correspondences supporting the Notice of Motion. I have also perused the Court order alleged to have been disobeyed.
4. The issue before me is whether there is evidence in support of the alleged violation of court orders to warrant granting the leave sought.



5. The order in issue is annexed as exhibit “VNM 2” and order number 2 says:-

“that pending the hearing and determination of this application, there be a temporary injunction against the Respondent’s intended meeting to be held on the 23-9-2010 or any like meeting to be held on a later date having the same objections as aforesaid”.
6. The objective of the meeting stopped was a disciplinary process against the Claimant.
7. I have carefully considered the material before me and the submissions by the Learned Counsel for the Applicant in arriving at my decision. I am of the considered view that the applicant has failed to prove that the Court order dated 22-9-2010 was disobeyed by the Respondent’s agents targeted by the present application.
8. There is no evidence to show that any meeting for disciplinary action was ever held on 23-9-2010 or at all by the Respondent. If there was, the burden is on the applicant to prove for example by a correspondence or minutes confirming that a meeting took place and deliberated on matters which had been stopped by the said court order.
9. I have no doubt in my mind that there is no evidence to show that the termination of the applicant’s employment vide letter dated 8-2-2011 was not as a result of the disciplinary process that had been stopped by the court. The reasons for the termination are carefully stated in the said letter “VNM5” and if the applicant is offended by the same he knows what to do but not by way of instituting contempt proceedings.
10. Accordingly, I dismiss the application dated 10-3-2011 with no orders as to costs since the same was ex-parte.

ORDERS ACCORDINGLY. DATED AND DELIVERED AT NAIROBI THIS 16TH DAY OF NOVEMBER, 2012.

ONESMUS MAKAU

JUDGE

