

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT ELDORET

Civil Case 180 of 2009

JOHN KANGOGO KUTO PLAINTIFF

- VERSUS -

JOSEPH KIPTANUI CHERUIYOT DEFENDANT

RULING

This is an application brought against the defendant/respondent praying that he be detained in civil detention for a period not exceeding six months for disobedience of a lawful court order and that he be not heard on any application objection or any other issue in the suit unless and until he purges his contempt by complying with the court's order issued on 27/5/2010 barring him from interfering with the plaintiff's possession and occupation of title No. Irong/Bugar/62 and 60. The order was personally served on the defendant who has defiantly cultivated the entire suit land and blocked the plaintiff's access to the property and he has called court orders fake documents which do not bind him and this conduct has greatly undermined the authority and dignity of the court. The plaintiff states that the defendant's conduct has hindered the course of justice and it could erode public confidence in the administration of justice if such conduct goes unpunished. The supporting affidavits to the application are sworn by the applicant and the court process server states that on the 28/5/2010 he personally served the order on the Respondent at the Respondent's residence at Bugar sub-location of Kapchemistwa location.

The respondent has never filed any papers in reply and/or opposition to the application brought against him in this case. He has not even entered appearance and he did not attend court.

From the material placed before court I am satisfied that the order was served on the defendant personally and that he is or ought to be aware of the same. Being so satisfied and further noting that the authority and dignity of the court must at all times be upheld and protected. I hereby grant orders that the respondent be arrested by the officer commanding police station Iten and I hereby order that warrants for his arrest do issue and the said Joseph Kiptanui Cheruiyot be detained in civil jail for a period not exceeding six months. I further order that the respondent shall not be heard on any application in this case until he purges his contempt.

It is so ordered.

DATED SIGNED AND DELIVERED AT ELDORET THIS 28TH DAY OF JULY, 2010.

P.M. MWILU

JUDGE.

In the presence of:

MR. MBUGUA NGIGI Advocate for plaintiff / applicant

No appearance – Respondent.

Andrew Omwenga- Court Clerk

P.M MWILU

JUDGE.