



REPUBLIC OF KENYA



**KENYA LAW**  
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**Global Link Enterprises v Semak Limited (Environment & Land Miscellaneous  
Case E099 of 2022) [2022] KEELC 13660 (KLR) (13 October 2022) (Ruling)**

Neutral citation: [2022] KEELC 13660 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND MISCELLANEOUS CASE E099 OF 2022  
LN MBUGUA, J  
OCTOBER 13, 2022**

**BETWEEN**

**GLOBAL LINK ENTERPRISES ..... APPLICANT**

**AND**

**SEMAK LIMITED ..... RESPONDENT**

**RULING**

1. This miscellaneous suit was filed by way of a Notice of motion. Application dated 17.6.2022 in which the applicant seeks the following orders:
  - i. Spent.
  - ii. That the Respondent's Director(s) be cited for contempt of court and be punished therefore by imprisonment for such a period of time as the court may in its discretion direct or in such other manner as the court may decide.
  - iii. That the Respondent be ordered to purge the contempt by making good the damage done to the suit property and the goods therein at its cost and in such a manner as the court may direct.
  - iv. That the costs of this application be provided for.
2. The grounds in support of the application are that;
  - i. The applicant filed a reference before the BPRT No. E493 of 2022 and contemporaneously filed an application at the BPRT seeking injunctive orders restraining the Respondent from interfering with the Tenant's/ Applicants quiet possession and occupation of Shop on Plot No. 60 Nairobi and also to be granted access to the said shop.



- ii. The chairperson of the BPRT issued on Order dated 9th June 2022 which granted the Applicant access to the premises and restrained the Respondent from interfering with the Applicant’s quiet possession and occupation of Shop on Plot No. 60 Nairobi pending hearing and determination of the application inter partes.
  - iii. The Order from the BPRT was duly served upon the Respondent on 10th June 2022. Despite the Order being served the Respondent went ahead to break the door of the subject shop, vandalized the goods therein and took away others thus causing great damage and loss to the Applicant.
  - iv. The Applicant operates a supply business dealing with laboratory chemicals and goods that he supplies to various secondary schools across the country and the Respondent’s action of malicious damage to the property has caused him great loss.
  - v. Landlord continues to interfere with the Tenant’s quiet possession and occupation of shop on Plot No. 60 Nairobi despite the orders of this court issued on 9th June 2022 thereby causing loss in flagrant disregard of the orders of the Tribunal.
  - vi. The Respondent has, despite having been served and despite being aware of the orders of the Tribunal continued to engage in activities that are in flagrant disregard of the orders of the Tribunal.
  - vii. The Respondent has refused and neglected to heed all warnings to cease and desist from its contemptuous actions.
  - viii. The actions of the Respondent risk destroying the subject matter of the reference before the Tribunal and rendering the same nugatory.
  - ix. The Landlord/Respondent’s actions are disrespectful to the honourable tribunal and to this honourable court and the Court requires to act urgently to restore its authority and dignity by investigating and acting on the complaints raised by the Applicant.
3. The application was served but no response was filed.
  4. A perusal of the record reveals that the parties have a dispute before the tribunal in BPRT case No. E493 OF 2022 (NBI) in which orders were given as 9.6.2022 requiring the Respondent to cease interfering with the applicant’s possession of the suit plot No. 60.
  5. The laws on Contempt are necessary for the maintenance of law and order so that the dignity of the court is upheld – see *Kenneth Gathura Kimani v- Grace Njeri Macharia* [2018] eKLR. In the case of *Sophinah Kalondu Mbiti v. Arun Mabendra Adaya & 3 others* [2021] eKLR, I cited the Court of Appeal case of *Fred Matiangi the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government v Miguna Miguna & 4 others* [2018] eKLR where it was held that:

“When courts issue orders, they do so not as suggestions or pleas to the persons at whom they are directed. Court orders issue ex cathedra, are compulsive, peremptory and expressly binding... This Court, as must all courts, will deal firmly and decisively with any party who decides to disobey court orders and will do so not only to preserve its own authority and



dignity but the more to ensure and demonstrate that the constitutional edicts of equality under the law, and the upholding of the rule of law are not mere platitudes but present realities.”

6. I find that the application is merited and the same is allowed in the following terms
  1. The Respondent through its directors are found guilty of contempt in terms of Section 5(1) of the *judicature Act*.
  2. An order is hereby issued for the Respondents to appear before this court through its directors to show cause as to why they should not be punished for contempt.
  3. The issue of costs shall be determined at the stage of Notice to show cause.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 13TH DAY OF OCTOBER, 2022 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

M/s Wanyonyi for the Plaintiff/Applicant

Court assistant: Eddel/Joan

