



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA**  
**AT NYERI**

**Civil Case 110 of 2000**

**MUTHUKIA WANGUHI.....RESPONDENT/PLAINTIFF**

*Versus*

**CHARLES WANJAU GATHUNGU.....APPLICANT/DEFENDANT**

**RULING**

The Defendant has filed a Chamber Summons dated 20<sup>th</sup> June 2007 seeking the Plaintiff's committal to civil jail for contempt of the court order. In support of the application the Defendant stated that an order was made for the eviction of the Plaintiff by this court on the 4<sup>th</sup> May 2007. Following that order the Plaintiff was evicted on 15<sup>th</sup> May 2007. On the 23<sup>rd</sup> May 2007 the Plaintiff in contempt of the Court order re entered the suit property being parcel No. **NYERI/ISLAND FARMS/85**. The Defendant concluded by saying that the Plaintiff should be committed to civil jail for that contempt. The Plaintiff opposed the application and in that opposition filed a replying affidavit. The Plaintiff deponed that upon the court issuing eviction order he has not done anything to contravene that order. He denied that he has put up any structures on the suit property. He deponed that the Defendant merely wanted to punish him by committing him into civil jail. Having considered the Defendant's affidavit in support of the application and the Plaintiff's affidavit in opposition, I find that the court is unable to grant the orders sought since the court finds it difficult to ascertain where the truth lies. The court, however, is of the view that if indeed the Plaintiff is disobedient of the court orders that in itself is sufficient for the court to grant committal orders against him. Accordingly the court will require that the Deputy Registrar of this court to visit the suit property in order for him to ascertain whether the Plaintiff has disobeyed the court orders. The Deputy Registrar will therefore communicate with both parties with respect to the day that he shall visit the suit property. It is only after the Deputy Registrar has filed in this court his report that this court will give the final orders of the Chamber Summons dated 20<sup>th</sup> June 2007. Orders accordingly.

***Dated and delivered at Nyeri this 5<sup>th</sup> day of October 2007.***

MARY KASANGO

**JUDGE**