

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

Civil Suit 518 of 2004

WILSON KIPMAGUT ARAP SOI APPLICANT

VERSUS

ARMSTRONG KASUKU

AGRICULTURAL FINANCE CORPORATION RESPONDENTS

RULING

This is an application seeking in prayer 2 that “warrants of arrest issued on 5th August, 2005 be set aside”. It is not clear precisely what Rule it seeks to invoke. However, Orders L and XVI are cited, without the applicable rule.

In any event, the facts leading to this application are simple. By an Order of this Court (Hon. Ransley, J) dated the 3rd May, 2005, the Applicant here was required to vacate the suit land (being L. R. No. 94827) within 60 days of that Order and to put one Armstrong F. Kasuku in possession of the same. In default the applicant “shall be detained in prison for a term not exceeding six (6) months”.

This Order followed the purchase of the suit land by the aforesaid Mr. Kasuku in a public auction. The latter is now the registered owner of the suit land, and is making every effort to obtain possession of the same. After failing in all his attempts, he obtained the above court order. This Order is clear in its wording. It has not been set aside, nor appealed against, nor is there an application to review the same. It is a valid Order of this court. There is no dispute about that.

Accordingly, and until it is set aside, it must be obeyed. Therefore, the warrants of arrest issued in pursuance to the said Order are valid, and I see no reason and no legal basis to set aside the same. The applicant’s long narration of reasons why the warrants should be set aside, or await the hearing of other suits in other courts, is a red herring. Here, before me, is a valid Court Order, and valid warrants of arrest. The Applicant must obey the same.

Accordingly, this application is dismissed with costs to the Respondents.

Dated and delivered at Nairobi this 8th day of November, 2005.

ALNASHIR VISRAM

JUDGE