



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
Civil Case 664 of 2005 (1)

KALYASOI FARMERS CO-OPERATIVE

SOCIETY1ST PLAINTIFF/APPLICANT

SAMWEL KIPKEMOI LANGAT.....2ND PLAINTIFF/APPLICANT

JONATHAN KIPKORIR BORE.....3RD PLAINTIFF/APPLICANT

NICHOLAS KIMETO.....4TH PLAINTIFF/APPLICANT

FRANCIS KIMUTAI MARITIM.....5TH PLAINTIFF/APPLICANT

STANLEY KIBET KIRINYET.....6TH PLAINTIFF/APPLICANT

JOSEPH KIPKOSKE KILELE.....7TH PLAINTIFF/APPLICANT

-VERSUS-

COUNTY COUNCIL OF NAROK..... DEFENDANT/RESPONDENT

COURTESY IN COURT:

A FORMAL CAUTION TO COUNSEL

I did hint earlier in my ruling that it behoves me to sound a word of caution to counsel, in the light of unbecoming conduct which came to pass, as I conducted Court process in this matter.

The several rulings which I had to make, and which were necessitated by objections put up by counsel for the respondent, became themselves the occasion for challenge to my judicial authority. When I gave a ruling on 20th June, 2005 counsel for the respondent sought and was granted leave to lodge an appeal. However, when he did not win on a precursory application to the Court of Appeal, and was directed to return before me for the continued hearing of the contempt application against his client, on 22nd June, 2005 he still had a quibble to raise, and which led me to make a ruling. Apparently miffed by my ruling, he confronted me, instead of seeking *leave to appeal* against that ruling. He let fall these words:

“You should recuse yourself. On more than one occasion you have held that this contempt application must be heard in priority over everything the defendant would wish to raise.”

So, what learned counsel had failed to convince the appellate Court to grant his client by lawful order, he was now contriving to claw back by his sheer bravado and guts! It was an undisguised show of discourtesy and was, in my view, the archetypal abuse of the process of the Court.

I wish to state that all counsel have a *duty of courtesy* when they appear in Court, and persistent failure to observe this practice may, in an appropriate case, occasion the application of the sanctions provided by law.

I hereby record the Court's displeasure at the conduct of learned counsel, **Mr. F. Ngatia**, during the Court session of 22nd June, 2005 and signal that such conduct is not again to be endured.

DATED and **DELIVERED** at Nairobi this 2nd day of December, 2005.

J.B. OJWANG

JUDGE

Coram: J.B. Ojwang

Court Clerk: Mwangi

Present: (1) Counsel for the Defendant/Respondent: Mr. Ngatia

(2) Counsel for the 1st, 2nd, 3rd Plaintiffs: Mr. Kemboy

(3) Counsel for the 4th, 5th, 6th, 7th Plaintiffs: Mr. Katwa