

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NYAHURURU

ELC NO. 6 OF 2020 (OS)

JAMES GACHIRI MWANGI.....PLAINTIFF/ APPLICANT

-VERSUS-

JOHN WAWERU MURIUKI.....1st DEFENDANT/RESPONDENT

SARAH WAITHERA WAWERU.....2nd DEFENDANT/RESPONDENT

SAMWEL WAWERU NDUNGU.....3rd DEFENDANT/RESPONDENT

MARTIN MACHARIA WAMBUI.....4th.DEFENDANT/RESPONDENT

RULING

1. What is before the court for determination is therefore the original application dated the 25th February 2020 by way of Notice of Motion made under Order 50 Rule 1, Order 40 Rule 1 and 3 of the Civil Procedure Rules and Section 1A, 1B and 3A of the Civil Procedure Act where the Plaintiff/Applicant seeks injunctive orders against the Respondents.

2. On the 25th February 2020, there were ex-parte interim orders of status quo issued and the Applicant directed to serve their application upon the Respondent so that the matter could proceed for inter-parties hearing on the 28th April 2020.

3. While the matter was pending hearing, Counsel for the Plaintiff filed another application under certificate of urgency dated the 7th April 2020, wherein he sought for orders that the 3rd and 4th Defendants/Respondents be summoned to Court to show cause why they should not be committed to civil jail for blatantly failing to comply with the orders of status quo issued by the Court and in default they be committed to jail for a maximum of 6 months for contempt of the said Court order. The said application was heard and dismissed via the court's ruling of the 25th June 2020.

4. On the 5th October 2020 the matter came up for mention to confirm compliance of the orders issued on the 25th February 2020 regarding the Application dated the 25th February 2020 wherein only the Plaintiff/Applicant's Counsel was present. I note that although there had been Replying Affidavits filed by both the 3rd and 4th Respondents on the 17th April 2020 and 23rd April 2020 respectively, there had neither been a notice served upon the Respondents of the Mention date for the 5th October 2020 nor directions taken as to how the said Application dated the 25th February 2020 would be dispensed with.

5. In line with the provisions of Article 50 of the Constitution and Section 1A, 1B and 3A of the Civil Procedure Act, I do direct that this matter be placed before the Judge for further directions on its expeditious disposal.

Dated and delivered at Nakuru this 13th day of January 2021

M.C. OUNDO

ENVIRONMENT & LAND – JUDGE