



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MISC. APP. 1655 OF 1999**

**JOB WAINAINA MUCUHA & ANR .....APPLICANT**

**VERSUS**

**THE REGISTRAR OF TRADE UNIONS KENYA UNION**

**OF ENTERTAINMENT & MUSIC INDUSTRY EMPLOYER .....RESPONDENT**

**RULING**

By the chamber summons of the 15.3.2001 as annexed applicant seeks to an order that the Registrar of Trade Unions be held in contempt of the order of this court of the 4/1/2000 and be committed to civil jail.

The order in questions order (3) states:-

*“That there will be a temporary stay until the hearing of the motion which will be filed in 21 days”.*

The order with a penal notice was served according to Jasheth Aluvale Mashetu in his affidavit of the 15/3/2001 on the Senior Deputy Registrar General on the 16.2.2001.

The application now seeks the order asked for on the tasks that on the 26/11/1999 the Registrar of Trade Unions without any other of right purportedly registered non members to occupy all the offices including those that were not vacant (see para 5 of the applicants affidavit of the 15/3/2001).

I can find no evidence on the application other than a rare assertion by the applicant that the Registrar General did register non-members to occupy all the said offices on the 26.11.1999. If in fact that Registrar General had registered non-members on the 26/11/1999 as alleged then as Mr. Langat points out the order could not relate to matters in the past and as such there could be no contempt.

In order for an application of this kind to succeed there must be an order which either directs or forbids someone to either do some act or refrain from it. The order must be served personally on the person in question. The order having a penal notice evidenced thereon. The person served who must be named must be shown to have disobeyed the order by either doing or not doing something which the order directs or forbids.

In this case I do not know the name of the person on whom the order was served. Further there is no evidence that that person disobeyed the order.

I am not at all clear what the order in fact stayed as this is not stated in the application and I see no reason why the person on whom the order was stayed should be any the wiser.

I find no merit in the application which I dismiss with costs.

**P. RANSLEY**

**COMMISSIONER FOR ASSIZE**

**6.2.2002**

**Coram: Ransley, Commissioner for Assize**

**Martha Court clerk**

**Mr. Opiyo for applicant**

**Mr. Ochieng for 2nd respondent**

**No appearance for 1st respondent**

**Ruling delivered.**

**P. RANSLEY**

**COMMISSIONER FOR ASSIZE**