



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO. 120 OF 2001.

ELIUD MATHIU 1ST PLAINTIFF

JOHN BOSSE 2ND PLAINTIFF

PATRICK MUIRURI 3RD PLAINTIFF

J. K. MUTHONDU 4TH PLAINTIFF

VERSUS

GEORGE GARETH 1ST DEFENDANT

PETER NYAKIAMO 2ND DEFENDANT

ERNEST SAINA 3RD DEFENDANT

KIRINYA MWENDIA 4TH DEFENDANT

ALBERT MWENDA 5TH DEFENDANT

KENYA COMMERCIAL BANK LTD. 6TH DEFENDANT

KENCOM HOUSE LIMITED 7TH DEFENDANT

RULING

This application has been brought under Section 5(1) of the Judicature Act, Order XXXIX Rule 2(3) and 4 of the Civil Procedure Rules, Rule 3 of the High Court (Practice and Procedure) Rules and Section 3A of the Civil Procedure Act for orders that this matter be certified urgent and be heard during the Vacation and further that the applicants who are the plaintiffs in this matter be granted leave to apply to this court for an order of committal to civil jail of GARETH GEORGE, PETER NYAKIAMO, ERNEST SAINA, KIRINYA MWENDIA and ALBERT MWENDA, the defendants/respondents for such period as this Honourable Court may deem fit and just for contempt of court in that the respondents being aware of the orders of this Honourable Court made on 31/1/2001 and having been served with the same together with a penal notice have jointly and severally violated the said court order by announcing the end year results of the sixth defendant in which the proceeds of the sale of Kencom House were treated as paid and received and reflected as exceptional income.

Because of the nature of the matter, I was satisfied that the matter was urgent and ought to be heard during the vacation and I proceeded accordingly.

Upon consideration of the evidence placed before me through the supporting affidavit sworn on 11.4.2001 by Eliud Mathiu, the first plaintiff and the annexures thereto and also upon considering submissions by learned counsel for the applicants, I am satisfied that the applicants are entitled to the orders they seek.

Accordingly, the application is allowed and leave granted to the applicants to apply for an order of committal to civil jail of the defendants/respondents as prayed in the application. Costs of this application will be in the cause.

Dated at Nairobi this 17th day of April, 2001.

T. MBALUTO

JUDGE