

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

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MILIMANI COMMERCIAL COURTS

CIVIL CASE NO. 1770 OF 2000

ANDREW OMBATI NYAMBATI PLAINTIFF

VERSUS

GIRO COMMERCIAL BANK LIMITED DEFENDANT

RULING

This Notice of Motion application has been brought under O. XXXIX Rules 2A (2) and O. L Rule 1 of the Civil Procedure Rules, Section 3A of the Civil Procedure Act and the Judicature Act for an order that the General Manager of the defendant Mr. M. P. Sastry be detained in prison for a term not exceeding 6 months for disobeying a court order purportedly made on 10.5.2001 and 29.6.2001 and extended on 25.9.2000. Although the subject of this ruling is the preliminary point of law which Mr. Kipkorir for the defendant has raised, having carefully looked at the main prayer made in the application, I feel constrained to dismiss the application for another reason. As stated above, the court order allegedly disobeyed is said to have been made on “10th May, 2001 and 29th June, 2001” and extended on “29th September 2000”. In my view these dates do not make any sense. My attempts to get some meaning from them by reference to the record proved unsuccessful. In view of that, the prayer is meaningless and cannot be granted. The application is for that reason struck out with costs. The applicant is at liberty to bring a fresh application.

Dated at Nairobi this 15th day of June, 2001.

T. MBALUTO

JUDGE