



**Mose v Kirwa ((Being Sued in Her Own Capacity & as the Personal Representative of the Estate of Salem Kiprono Kirwa)) (Environment & Land Case 91 of 2016) [2024] KEELC 5143 (KLR) (11 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5143 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ELDORET  
ENVIRONMENT & LAND CASE 91 OF 2016**

**JM ONYANGO, J  
JULY 11, 2024**

**BETWEEN**

**MARY KWAMBOKA MOSE ..... APPLICANT**

**AND**

**ASHA CHEBET KIRWA (BEING SUED IN HER OWN CAPACITY & AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF SALEM KIPRONO KIRWA) ..... RESPONDENT**

**(BEING SUED IN HER OWN CAPACITY & AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF SALEM KIPRONO KIRWA)**

**RULING**

1. By a Notice of Motion dated 11<sup>th</sup> April, 2024 brought under Section 5 of the [Judicature Act](#), Section 3A of the [Civil Procedure Act](#) as well as Section 68 of the [Land Registration Act](#), the Plaintiff/Applicant seeks the following orders from this Court:
  - a. That summons be issued for personal attendance of Asha Chebet Kirwa for hearing of the present application for contempt against the egregious conduct of disobedience of court orders by the said Asha Chebet Kirwa.
  - b. That Asha Chebet Kirwa the Defendant/Respondent the cited contemnor herein do stand committed to civil jail for a period as this Honourable Court shall determine for contempt in being aware of the orders issued by this Honourable Court in this suit on 15.6.2023, knowingly and willfully violated and/or disobeyed and/or disregarded and/or thwarted and undermined the effect and purposes of the said order and/or knowingly and willfully failed to take reasonable steps to ensure that the said orders were obeyed. (sic).
  - c. That costs of and occasioned by this application be paid by the Respondent.



2. The application is premised on the grounds listed on the face of the Notice of Motion and supported by the Affidavit of Mary Kwamboka Mose, the Plaintiff herein. The Plaintiff averred that on 15<sup>th</sup> June, 2023 the court issued a temporary order barring the Defendant from dealing with 4 Acres of land on Uasin Gishu/Tapsagoi/267 (the suit property) pending hearing and determination of this suit. She deponed that the record shows that the orders were made in the presence of the Defendant's Counsel thus she is aware of them. She deponed that the Defendant however blatantly neglected the court orders, and proceeded to till the land. She averred that this is an attack on the rule of law and without the court's intervention, she stands to suffer irreparably and the orders of the court shall mean nothing but remain just mere pieces of paper. The Plaintiff urged that the Application be granted to restore the integrity of the judiciary, rule of law and protect against the violation of his constitutionally guaranteed fundamental rights. The Plaintiff annexed a copy of the order and photographs of the tilled land.
3. The Defendant swore a Replying Affidavit dated 30<sup>th</sup> April, 2024. She deposed that she was not served with the order of this Honourable Court. That in order to succeed in an application for contempt, the Applicant must prove that the terms of the order were clear and unambiguous, the respondent was properly aware of the terms of the order and acted in breach thereof, and that the Respondent's conduct was deliberate. The Defendant deponed that her conduct was not deliberate as she only became aware of the order when this Application was filed and way after she had tilled the suit property. She averred that courts have insisted that the order alleged to have been breached or disobeyed, as well as the penal notice, must be served personally on the contemnor unless the court dispenses with it. She deponed that there is no Affidavit of Service on record to support the claim that she was personally served. She indicated that she was ready to obey the court order dated 18<sup>th</sup> July, 2023.
4. The Plaintiff filed a Further Affidavit dated 6<sup>th</sup> May, 2024 in reply to the Defendant's response. She reiterated that the order clearly indicates that it was issued on 15<sup>th</sup> June, 2023 in the presence of Defendant's immediate former Counsel who was duty bound to brief the Defendant. The Plaintiff added that the Defendant cannot therefore state under oath that she was never served and was not aware of the orders. The Plaintiff denied the averments in the Defendant's Replying Affidavit and specifically the contention that the order must personally be served on the Defendant.
5. Pursuant to this, the Defendant also filed a Further Affidavit dated 9<sup>th</sup> May, 2024 where she deponed that in contempt proceedings, service is higher than knowledge. She reiterated the lack of proof that she was served with the order. The Defendant did not dispute the fact that her Advocate on record was present during the delivery of the ruling. She reiterated that she became aware of the order dated 18<sup>th</sup> July, 2023 after she had tilled the land, which action was not intended to contravene the orders of this court. She indicated that had she been served with the order, she would have complied with it, and further reiterated her readiness and willingness to obey the said order. She requested the court to dismiss the application.

### **Plaintiff's Submissions**

6. On 8<sup>th</sup> May, 2024 the court directed that the application be canvassed by way of written submissions and both parties complied with the court's directions. In the Plaintiff's submissions dated 14<sup>th</sup> May, 2024 learned Counsel for the Plaintiff argued that the Defendant was aware of the orders of this court as the ruling was delivered in the presence of her advocate who was duty bound to inform her. Counsel argued that the Defendant had stated in her Further Affidavit that she did not dispute her Counsel's presence at the delivery of the ruling. He pointed out that it was the obligation of every person against whom a court order is made to obey it unless and until it is discharged. Counsel relied on MNN vs JNM (2022) eKLR and the various decisions cited therein.



7. Counsel further submitted that from the evidence adduced herein, the Defendant was aware of the existence of the court orders issued on 15<sup>th</sup> June, 2023. That the Defendant also admitted that she tilled the land when there were active orders barring her from doing so. Counsel asked the court to find that the Plaintiff had discharged her burden of proof under Sections 107 and 109 of the *Evidence Act* CAP 80 Laws of Kenya, and find the Defendant guilty of contempt of the said orders. Counsel cited *Alice Wanjiru Ruhiru vs Messiac Assembly of Yahweh (2021) eKLR*, arguing that the Plaintiff had met the threshold of the aforementioned legal provisions through the evidence tabled.

### **Defendant's Submissions**

8. In the Defendant's submissions dated 13<sup>th</sup> May, 2024 Counsel pointed out that the power of the court to punish for contempt is prescribed under section 5(1) of the *Judicature Act*, and this court being of equal status to the High Court, has the same power to punish for contempt. Counsel pointed out that there have been efforts by the Defendant to rectify the violation, which shows she is remorseful. Counsel urged the court to consider the fact that the Defendant was not served with the court order at the time she tilled the land and not punish her for contempt.
9. Counsel submitted that for the Defendant to be committed to civil jail for contempt, her conduct of disobedience must be deliberate, yet in this instance, the Defendant did not intend to disobey the court's orders since she was not aware of them. Counsel submitted that the standard of proof of intentional disobedience is higher than a balance of probabilities and that it is close to proof beyond reasonable doubt (*Michael Sistu Mwaura Kamau vs Director of Public Prosecutions & 4 Others (2018) eKLR*). Counsel submitted that the Plaintiff had not satisfactorily proved the elements required for contempt of court and consequently, the Defendant should not be committed to civil jail because she has proved her disobedience was not deliberate. Counsel urged the court to dismiss the instant Application with costs for lack of merit.

### **Analysis and Determination**

10. Having carefully read and considered the application, the Affidavits filed in support and in response thereto, rival submissions, authorities cited to me and the relevant provisions of law and I find that the issues for determination are;
- a. Whether the defendant had sufficient knowledge of the orders of the court;
  - b. Whether the Defendant's conduct was deliberate and constitutes contempt of court; and
  - c. What orders should this court make?
11. By way of a brief background, the Plaintiff filed an application dated 28<sup>th</sup> February, 2023 seeking injunctive orders against the Defendant. The application was heard and the court delivered its ruling on the said application on 15<sup>th</sup> June, 2023. In its ruling, the court issued inter alia an order of injunction in the following terms:
- “(a) A temporary injunction be and is hereby issued restraining the Respondent, her servants, agents, any other person claiming under her or any other person whatsoever from selling, disposing of, alienating or in any manner dealing with the Plaintiff's land which is 4 Acres of land parcel No. Uasin Gishu/Tapsagoi/267 pending the hearing and determination of this suit.”
12. The court also granted the Defendant leave to appeal and 30 days stay of execution of the orders, which stay lapsed on 15<sup>th</sup> July, 2023. Despite the fact that the injunctive order was still in force, the Defendant



went ahead and tilled the suit property. It is this action that necessitated the present application by the Plaintiff.

- a. Whether the defendant had sufficient knowledge of the orders of the court
13. The court obtains its power to punish for contempt of its court orders at Section 5 of the [Judicature Act](#). The Court of Appeal in *Christine Wangari Gachege vs Elizabeth Wanjiru Evans & 11 Others* (2014) eKLR, found that the English law on committal for contempt of court is applied in Kenya by virtue of section 5(1) of the [Judicature Act](#) which provided that:

“The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and that power shall extend to upholding the authority and dignity of subordinate courts.”

14. In addition to that, this court has special jurisdiction to punish for contempt donated under Section 29 of the [Environment and Land Court Act](#), which provides that:-

“ 29. Offences

Any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding two years, or to both.”

15. The justification for empowering courts to punish for contempt was extensively explained in the case of *Samuel M. N. Mweru & Others v National Land Commission & 2 others* [2020] eKLR, where the court explained that:-

“ 32. I now address the question whether the applicants have established any basis for the orders sought to be granted. If courts are to perform their duties and functions effectively and remain true to the spirit which they are sacredly entrusted with, the dignity and authority of the courts has to be respected and protected at all costs. Otherwise the very cornerstone of our constitutional scheme will give way and with it will disappear the Rule of Law and a civilized life in the society. It is for this purpose that courts are entrusted with the extraordinary power of punishing those who indulge in acts whether inside or outside courts which tend to undermine their authority and bring them in disrepute and disrespect by scandalizing them and obstructing them from discharging their duties. When the court exercises this power, it does so to uphold the majesty of the law and of the administration of justice. The foundation of judiciary is the trust and confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the court by creating distrust in its working the edifice of the judicial system gets eroded.

33. It is essential for the maintenance of the Rule of Law and order that the authority and the dignity of courts is upheld at all times. The court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a court of competent jurisdiction, to obey it unless and until that



order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void.

34. It is the duty of the court not to condone deliberate disobedience of its orders nor waiver from its responsibility to deal decisively and firmly with contemnors. The court does not, and ought not be seen to make orders in vain; otherwise the court would be exposed to ridicule, and no agency of the constitutional order would then be left in place to serve as a guarantee for legality, and for the rights of all people.
35. A court order is binding on the party against whom it is addressed and until set aside remain valid and is to be complied with...
36. It is a crime unlawfully and intentionally to disobey a court order. This type of contempt of court is part of a broader offence, which can take many forms, but the essence of which lies in violating the dignity, repute or authority of the court. The offence has in general terms received a constitutional 'stamp of approval,' since the Rule of Law – a founding value of *the Constitution* – 'requires that the dignity and authority of the courts, as well as their capacity to carry out their functions, should always be maintained.'

16. With regards to the standard of proof, there have been numerous decisions made on the same, and while I agree with the Defendant that the standard of proof required in cases of contempt is higher than a balance of probabilities required in an ordinary civil case, it is not proof beyond reasonable doubt as she alleged. In *Gatharia K. Mutikika vs Baharini Farm Ltd* (1985) KLR 227 the court clearly explained the standard of proof for civil contempt, holding that:-

“In, *Re Breamblevale Ltd* [1969] 3 All ER 1062, Lord Denning MR. (as he then was), at page 1063, had this to say,

‘A contempt of court is an offence of a criminal character. A man may be sent to prison. It must be satisfactorily proved. To use the time-honoured phrase, it must be proved beyond reasonable doubt’.

With the greatest possible respect to that eminent English judge, that proof is much too high for an offence “of a criminal character” and, ipso facto, not a criminal offence properly so defined. We agree with Mr. Khaminwa’s submissions in this respect. In our view the standard of proof in contempt proceedings must be higher than proof on the balance of probabilities, almost but not exactly, beyond reasonable doubt. We envisage no difficulty in courts determining the suggested standard of proof. The standard of proof beyond reasonable doubt ought to be left where it belongs, to wit, in criminal cases. It is not safe to extend it to offence which can be said to be quasi – criminal in nature Winn LJ on page 1064 was in our view right in saying that the guilt has to be proved ‘with such strictness of proof ... as is consistent with the gravity of the charge’.

17. The court in the *Samuel M.N. Mweru Case* (Supra) went ahead to set out the elements to be established in an application for civil contempt. The Court held that:-

“40. It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove;



- i. the terms of the order,
- ii. Knowledge of these terms by the Respondent,
- iii. Failure by the Respondent to comply with the terms of the order.

Upon proof of these requirements, the presence of willfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities. Perhaps the most comprehensive of the elements of civil contempt was stated by the learned authors of the book *Contempt in Modern New Zealand* who succinctly stated:-

‘There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that:-

- (a) the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;
- (b) the defendant had knowledge of or proper notice of the terms of the order;
- (c) the defendant has acted in breach of the terms of the order; and
- (d) the defendant’s conduct was deliberate’.

18. In the instant application, there is no dispute that there exists a binding court order that is clear and unambiguous. There is also no dispute that in tilling the land, the Defendant acted in breach of the said order. The two elements regarding the terms of the order and the breach of the order have been satisfied. What remains to be verified is whether the Defendant had knowledge of the order and therefore whether in acting as she did, her conduct was deliberate.
19. The Defendant does not dispute the fact that she has not complied with the courts orders. The only justification given for her actions is that she was never served with the order and was therefore unaware of its existence. She has deponed in her two Affidavits sworn in opposition to the application herein that she tilled the land way before she became aware of the orders subject matter of this application. Further, it is the Defendant’s case that before a finding of contempt can be made; there must a demonstration of willful and deliberate disobedience of a court order. The Defendant has argued that since she was not personally served, she had no knowledge of the order, thus there can be no willful disobedience of the court order.
20. As a requirement, the party alleged to have breached the order must have had actual knowledge of it. The Plaintiff on her part did not at any one point allege that the Defendant was ever served with the order herein. The Plaintiff’s argument is that the ruling in respect out which the order emanated from was delivered in the presence of both her advocate on record as well as Counsel for the Defendant. Further, that the Defendant’s advocate was duty bound to inform her of the said order and therefore Defendant must have been aware of it.



21. It is the Defendant's assertion that in order to prove that she willfully and/or deliberately disobeyed the court order; it has to be shown that the Defendant was aware of the order to begin with. In his Replying Affidavit, the Defendant cited the case of Nyamogo & Another vs Kenya Posts and Telecommunications Corporation (1994) KLR 141, where the court insisted on establishing personal service of the subject order and the attendant penal notice upon the alleged contemnor. However, it is useful to note that the said decision was made thirty years ago. From the jurisprudence emanating from our courts in recent years, this position has changed. There are numerous decisions where it has been held that it is sufficient for the applicant to demonstrate awareness and/or knowledge by the alleged contemnor of the orders even where they were not served. Thus, as the law stands right now, knowledge of an order supersedes personal service. See Kenya Tea Growers Association vs Francis Atwoli & Others (2012) eKLR, where the court held that:-

“On this issue, our Courts seem to have moved steadily towards the position that although Order 52 Rules 3 and 4 of the Supreme Court Practice Rules of England would point towards personal service as a factor in determining contempt, in fact knowledge of an order is higher than service. It is common ground that neither of the alleged contemnors was ever directly served and that leaves the issue whether they had knowledge of the order prior to 18<sup>th</sup> October 2010. On that issue, I have the evidence of Isaac Kiprotich Maswai, Philip Kibii Cheruiyot and Emmanuel Ng'etich before me. They all stated, on oath, that they heard Francis Atwoli uttering words whose import was to confirm that not only was he aware and had knowledge of the Order but he also challenged it as having been given without jurisdiction. Cheruiyot went further to produce a transcription of words that he recorded as having been uttered by Atwoli and which I have reproduced above.”

22. In the Kenya Tea Growers Case (Supra), the Respondents claimed that they were unaware of the Court Order until they saw it in a newspaper over a month after it was issued and that they were not served with the Court orders and therefore they could not be said to be in contempt. Lenaola J went on to find that he was satisfied that the alleged contemnors had knowledge of the Court Order. The intention of the courts in contempt proceedings is to not only protect the integrity and dignity of Court orders, but also to give effect to them. In doing so, courts ought not excuse a contemnor who has knowledge of a Court order simply because they seek to hide behind the fact that they were not personally served, to allow that will lead to opening up Court orders and process to deliberate, willful and contemptuous disobedience.

23. The Court of Appeal, gave its stamp of approval to this position in the case of Shimmers Plaza Limited vs National Bank of Kenya [2015] eKLR, the court held that:-

“We now revisit the issue of service. Was there service of the order said to have been disobeyed on the respondent? There is no dispute that no formal order was extracted and personally served on the respondent and an affidavit of service filed to that effect.”

In that respect, this case can be distinguished from Justus Kariuki Mate & Another vs Hon. Martin Wambora (Wambora case) supra cited by learned counsel for the applicant.

On the other hand however, this Court has slowly and gradually moved from the position that service of the order along with the penal notice must be personally served on a person before contempt can be proved. This is in line with the dispensations covered under 81.8 (1) (supra).

Kenya's growing jurisprudence right from the High court has reiterated that knowledge of a court order suffices to prove service and dispense with personal service for the purposes



of contempt proceedings. For instance, Lenaola J in the case of Basil Criticos vs Attorney General and 8 Others [2012] eKLR pronounced himself as follows:-

“...the law has changed and as it stands today knowledge supersedes personal service...where a party clearly acts and shows that he had knowledge of a Court Order; the strict requirement that personal service must be proved is rendered unnecessary”

24. On this issue, the Court of Appeal again pronounced itself in *Woburn Estate Limited vs Margaret Bashforth* [2016] eKLR citing the decision in *Refrigeration and Kitchen Utensils Ltd v Gulabchand Popatlal Shah & Another*, Nairobi Civil Application No.39 of 1990, where it was observed that:-

“A party who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null or valid-whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question...he should apply to the court that it might be discharged. As long as it exists it must not be disobeyed.”

25. This court is bound by the decisions of the superior court to the effect that where it can be shown that a party has knowledge of a court order, personal service is not mandatory. The record shows that the ruling in respect of which the orders herein were made was delivered on 15<sup>th</sup> June, 2023 in the presence of both Counsel for the Plaintiff and Counsel for the Defendants. It goes without saying that Advocates represent the interests of their clients. For that reason, where orders are made in the presence of a party's Advocate on record, there is a reasonable presumption that Counsel will inform their clients of the decision of the court. The Defendant is thus presumed to have knowledge of the existence and terms of the court order in question. In *Shimmers Plaza Limited vs National Bank of Kenya (Supra)*, the court held that:-

“The dispensation of service under rule 81.8 (1) is subject to whether the person can be said to have had notice of the terms of the judgment or order. The notice of the order is satisfied if the person or his agent can be said to either have been present when the judgment or order was given or made; or was notified of its terms by telephone, email or otherwise. In our view, 'otherwise' would mean any other action that can be proved to have facilitated the person having come into knowledge of the terms of the judgment and/or order. This would definitely include a situation where a person is represented in court by counsel. Once the applicant has proved notice, the respondent bears an evidential burden in relation to wilfulness and mala fides disobedience. This Court in the *Wambora* case (supra) affirmed the application of these requirements.”

26. Further, Order 5, Rule 8(1) of the Civil Procedure Rules, 2010 provides that;

“Wherever it is practicable, service shall be made on the defendant in person unless he has an agent empowered to accept service, in which case service on the agent shall be sufficient”.

27. In this suit, the Defendant was represented by Counsel who was present in court when the ruling was delivered. Counsel was well aware of the injunctive order issued herein and from the above analysis, the Defendant cannot claim to not have been aware of the orders of this court issued on 15<sup>th</sup> June, 2024. Notably, the Defendant did not allege that her erstwhile advocate never informed her of the orders of this court. She is still represented in the matter, albeit by a different Advocate, but I note also that there



is no indication that this new advocate did not know of the orders herein. It is the Court's finding that the Defendant had knowledge of the injunction granted by this court on a temporary basis pending hearing and determination of this suit.

**b. Whether the Defendant's conduct was deliberate and constitutes contempt of court**

28. In the case of Econet Wireless Kenya Limited vs Minister for Information and Communication of Kenya Authority (2005) eKLR, Hon Justice Ibrahim (as he then was) stated as follows: -

“It is essential for the maintenance of the rule of law and order that the authority and the dignity of our courts are upheld at all times. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against whom an order is made by court of competent jurisdiction, to obey it unless and until the order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by the order believes it to be irregular or void.

29. There is no doubt that the orders have been in force since they were issued and have neither been discharged, varied or set aside. Despite the existence of active court orders, the Defendant went ahead and tilled the land as shown in the photographs annexed to the Plaintiff's Supporting Affidavit dated 8<sup>th</sup> April, 2024. That aside, the Defendant herself has admitted to tilling the land, which is a clear breach of the orders issued on 15<sup>th</sup> June, 2024. The reason given for her actions is that she undertook this exercise way before she became aware of the order barring her from dealing with the suit property. The next question now is whether this contravention was deliberate.

30. On this issue, Hon. Justice Mativo in the Samuel M.N. Mweru Case (Supra) explained that:

“38. The test for when disobedience of a civil order constitutes contempt has come to be stated as whether the breach was committed ‘deliberately and mala fide.’ A deliberate disregard is not enough, since the non-complier may genuinely, albeit mistakenly, believe he/she is entitled to act in the way claimed to constitute the contempt. In such a case good faith avoids the infraction. Even a refusal to comply that is objectively unreasonable may be bona fide (though unreasonableness could evidence lack of good faith).

39. These requirements – that is the refusal to obey should be both willful and mala fides, and that unreasonable non-compliance, provided it is bona fide, does not constitute contempt – accord with the broader definition of the crime, of which non-compliance with civil orders is a manifestation. They show that the offence is committed not by mere disregard of a court order, but by the deliberate and intentional violation of the court's dignity, repute or authority that this evinces. Honest belief that non-compliance is justified or proper is incompatible with that intent.”

31. Deliberate disobedience has connotations of willful and intentional disobedience of a court order. Courts therefore seek to determine whether the contemnor is guilty of intentional and willful violation of the orders of the court in order to determine whether the conduct complained of constitutes civil contempt. While I appreciate the Defendant's candour in admitting that she did in fact till the land, the undisputed fact to me is that she was aware of the court's orders and failed to comply with them, she is thus in contempt of court orders. It is clear that she is conveniently trying to use this lack of service of the orders as an excuse to evade compliance thereof.



**c. What orders should this court make?**

32. At Prayer No. 2 of the Motion, the Plaintiff has asked that the Defendant be committed to civil jail for the breach of the orders of the court. The Defendant was aware of the orders made on 15<sup>th</sup> June, 2023 having been represented by counsel in court when the ruling was delivered. Despite this, she deliberately disobeyed the said orders and went ahead to till the land. Even though she wants this court to excuse her behaviour by finding that she was never served with the order, there is a reasonable presumption that her Advocate on record informed her of the said orders. That presumption has not been rebutted in any way. For this reason, there is no doubt in my mind that the Defendant is in contempt of the court's orders issued on 15<sup>th</sup> June, 2023.
33. However, as earlier indicated, the Defendant did not engage in a game of cat and mouse by denying her actions. She has admitted to tilling the land. The court notes that the Defendant has expressed readiness and willingness to abide by and obey the court orders now that she claims to have been made aware of them through this instant application. The court has taken into consideration all these factors and finds that the Defendant is guilty of contempt of court. In the circumstances the Defendant is summoned to appear in court on 30<sup>th</sup> September, 2024 to show cause why she should not be punished for willfully disobeying a court order.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT ELDORET THIS 11<sup>TH</sup> DAY OF JULY 2024.**

.....

**J.M ONYANGO**

**JUDGE**

**In the presence of;**

1. Mr. Mogire for the Plaintiff
2. Mrs. Nderitu for Mrs. Lagat for the Defendant

Court Assistant: Brian

