



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET**

**ELC NO. 348 OF 2017**

**MAGDALINE JEPKOECH.....1<sup>ST</sup> PLAINTIFF**

**ANJALINE JEPKEMOI KOSGEL.....2<sup>ND</sup> PLAINTIFF**

***Legal representatives of the Estate of Mariko Kiptarus Koskei (Deceased)***

**VERSUS**

**BENJAMIN TARUS.....1<sup>ST</sup> DEFENDANT**

**HENRY TARUS.....2<sup>ND</sup> DEFENDANT**

**ROMANA KOSKEI.....3<sup>RD</sup> DEFENDANT**

**DOMINIC TARUS.....1<sup>ST</sup> DEFENDANT**

**PHILIP TARUS.....2<sup>ND</sup> DEFENDANT**

**RULING**

This ruling is in respect of an application dated 29<sup>th</sup> January 2018 the Plaintiff/applicants seeking for the following orders:

- a) Spent
- b) That this honourable court be pleased to commit the defendants to Ccivil jail for at least 2 years for disobeying court orders granted on 16<sup>th</sup> November 2017.
- c) That this honourable court be pleased to deny the defendants audience until such a time that they purge their contempt.
- d) That this honourable court do order that the defendants do attend court while the application is being heard.

This matter came up for hearing for hearing of an application for injunction when the court issued temporary orders of injunction against the defendants. Counsel for the defendants requested the court to grant him time to respond to the application which the court did. The court ordered that the defendants appear in court on 19<sup>th</sup> March 2018 but only the 2<sup>nd</sup> defendant appeared.

The court issued a warrant of arrest for the 1<sup>st</sup> 3<sup>rd</sup> and 4<sup>th</sup> defendants but later 1<sup>st</sup> to 4<sup>th</sup> defendants appeared in court and urged the court to lift the warrant of arrest. The court considered their explanation and lifted the same in respect of the 1<sup>st</sup> to 4<sup>th</sup> defendant but extended the warrant against the 5<sup>th</sup> defendant.

On 13<sup>th</sup> June 2018 Counsel for the defendants informed the court that the 5<sup>th</sup> defendant has been unwell but did not produce any medical documents to prove the same and therefore the warrant of arrest against the 5<sup>th</sup> defendant was extended again.

I have considered this application and I am of the view that this is a matter involving brothers and sisters who should live in harmony. This is a matter where the parties should try mediation if they are agreeable to talking to each other. This does not mean that court orders should not be obeyed. The 1<sup>st</sup> to 4<sup>th</sup> defendant have been attending court as had been ordered by the court. Counsel for the defendants had indicated to the court that the 5<sup>th</sup> defendant has been unwell. Even though he did not provide proof of the same I will give him the benefit of doubt that

that is the position. Counsel also informed the court that the parties have filed a succession cause No 4 of 208 in Eldoret High Court which is still pending.

In the interest of justice and harmony in the family I order that status quo be maintained pending the determination of this suit. I also order that the parties consider mediation as a way of solving this matter.

**Dated and delivered at Eldoret this 2<sup>nd</sup> day of May, 2019**

**M.A ODENY**

**JUDGE**

**RULING read** in open court in the presence of Mr.Odhiambo holding brief for Mr.Chepkilot for Plaintiff and in the absence of Mr.Choge for Defendants.

Mr. Mwelem – Court Assistant