



**Paragon Electronics Limited v Chief Land Registrar; Commission on
Administrative Justice (Interested Party) (Miscellaneous Application E042 of 2022)
[2025] KEHC 2156 (KLR) (Constitutional and Human Rights) (18 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2156 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
MISCELLANEOUS APPLICATION E042 OF 2022
LN MUGAMBI, J
FEBRUARY 18, 2025**

BETWEEN

PARAGON ELECTRONICS LIMITED APPLICANT

AND

CHIEF LAND REGISTRAR RESPONDENT

AND

COMMISSION ON ADMINISTRATIVE JUSTICE INTERESTED PARTY

RULING

Introduction

1. By a Notice of Motion application dated 24th February 2023, the applicant seeks orders that:
 - i. Spent.
 - ii. The Respondent be summoned to appear before this Court and/or show cause why she should not be punished for persistent and deliberate contempt of court orders/decrees given on 15th November 2022.
 - iii. The Court be pleased to punish and commit the Respondent, to civil jail for a period not exceeding six (6) months for willful and deliberate disobedience of the Court orders/decrees given on 15th November 2022.
 - iv. The Respondent herein be denied audience by this Court until it purges the contempt of the court which has impeded the course of justice.



- v. The Respondent be ordered to pay for the cost of this Application.
2. This application arises out of the applicant's chamber summons application dated 26th October 2022 where the applicant sought adoption of the Interested Party's decision dated 4th October 2022. In the ruling of this Court dated 15th November 2022, the application was allowed.
3. The instant application brought after the Respondent's failed to supply this information as ordered by this Court.

Applicant's Case

4. The application is supported by the applicant's director, Bulent Gulbahar affidavit of even date and the grounds on the face of the Application. It is further supported by an expert witness, John K. Barreh, a Registered and Licensed Town Planner through his affidavit dated 13th July 2023.
5. The applicant states that this Court adopted the decision of the Interested Party as outlined in its letter dated 4th October 2022 as a Judgment of the Court.
6. In a nutshell, the Respondent was directed by the Interested party to avail to the applicant the documents and information requested vide their letter dated 18th May 2022.
7. He avers that neither the Respondent nor his Counsel were present in Court when this Court adopted the Interested Party's directive. It is however noted that the Respondent's Counsel had been served with the substantive application but failed to file a response to it.
8. He depones that through his advocate, AKO Advocates LLP, the Respondent was subsequently served with this Court's Ruling in this matter. He asserts that despite being served with the Court Orders, the Respondent in total disregard of the same has continued to willfully disobey these orders.
9. Consequently, the applicant contends that it will continue to suffer loss and prejudice in terms of the charge preferred on its property due to the Respondent's continued disobedience of the Court orders.
10. John K. Barreh in his affidavit in support contends that the Respondent's response in this matter is riddled with false misleading information. He states that the sought information is available and in possession of the Respondent.
11. He states that this became evident in a meeting dated 23rd March 2023 in compliance with the Court's directions in HCCC No. 8 of 2016, where the Chief Land Registrar, David Nyandoro divulged a number of issues.
12. He avers that Mr. Nyandoro confirmed the original head title, LR. No. 209 / 16027 and the registered sub-lease IR 111891 registered on the mother title ceased to exist from 21st January 2010. This is on the registration of subtitles LR. 209/19116 and 209/19115 registered in the name of Velos Enterprises Limited.
13. He states that it was further confirmed that Velos Enterprises Limited, registered a charge of Kshs. 301,000,000 in favour of I & M Bank. The Respondent further confirmed that the registration of subtitles LR. Nos. 209/19115 and 209/19116 was done irregularly by the then Registrar of Lands. He stated as advised that this was done without securing the subsisting sublease(s) /long term leases of 99 years of the applicant and Cannon Assurance Kenya Limited, including release of charges from the head title LR. 209/16027 which is a grave anomaly that is yet to be remedied.



Respondent's Case

14. In rejoinder, the Respondent filed grounds of opposition dated 22nd June 2023 on the premise that:
 - i. The failure to issue the information and/or documents was not willful or intentional. There were circumstances beyond the Respondent's control such as administrative delays and unforeseen obstacles that prevented the Respondent from fulfilling the court's directive.
 - ii. There exists a reasonable excuse for the Respondent's non-compliance. The Respondent encountered genuine difficulties and challenges in obtaining and processing the requested documents within the prescribed timeframe, despite making reasonable efforts to do so.
 - iii. The Respondents failure to comply does not amount to a contemptuous intent. This failure was not intended to disrespect or obstruct the Court's authority.
 - iv. The delays and shortcomings were unintentional and do not amount to willful disobedience of the Court's ruling.
 - v. The Respondents failure to comply was due to administrative constraints. The Respondent's office has experienced systemic and administrative constraints that contributed to the delay or non-compliance.
 - vi. The Application is frivolous and filed in bad faith to misguide this Court and to slander the outstanding reputation of the Respondent before this Court.
15. Furthermore, the Respondent through, the Land Registrar, Mark Wanderi Muigai, filed a Replying Affidavit sworn on 16th October 2024.
16. He depones that on 23rd February 2022, the applicant through its Counsel, made an application for discharge of charge for land parcel LR.No.209/19116 IR No.121661. The application was rejected on the grounds that the applicant had failed to attach the original title and a number of discrepancies being: differing dates, names and amounts on the discharge.
17. He depones that as per their records, land parcel IR No.121661 is registered under the name of Velos Enterprises Limited with a charge of Ksh.301,000,000 in favour of I&M Bank Limited.
18. He further swore that their records reveal that there exists a charge instrument by the applicant of Kshs. 75,000,000 in favour of I& M bank Limited registered on 24th July 2008, however this is in relation to a different parcel of land being IR.111891.
19. He asserts in view of this that the application for discharge of the charge was defective as it is clear that the applicant is not the registered proprietor of IR No.121661.
20. He adds that he communicated this to the applicant while rejecting the application in the letter dated 25th January 2022. He avers that he cannot supply the certified copy of this as the same was dispatched to the presenter once the decision was made.

Parties' Submissions

Applicant's Submissions

21. The applicant through AKO Advocates LLP filed submissions dated 16th October 2024 in support of its application.



22. Counsel highlighted that the law on contempt as provided for under Section 5 of the *Judicature Act*. This principle was also explicated in *Hadkinson vs. Hadkinson* (1952) 2 All ER 56 which Counsel relied on. The Court in this matter held as follows:
- “It was the plain and unqualified obligation of every person against or in respect of whom an order was made by a court of competent jurisdiction to obey it unless and until it was discharged and disobedience of such an order would as a general rule result in the person disobeying it being in contempt and punishable by committal or attachment and in an application to the court by him not being entertained until he had purged his contempt.”
23. Comparable reliance was placed in *Econet Wireless Kenya Ltd vs. Minister for Information & Communication of Kenya & Another* [2005] 1 KLR 828, *Wildlife Lodges Ltd vs. County Council of Narok and Another* [2005] 2 EA 344 (HCK), *Central Bank of Kenya & Another vs. Ratalal Automobiles Limited & Others Civil Application No. Nai. 247 of 2006* and *Awadh vs. Marumbu* (No 2) No. 53 of 2004 [2004] KLR 458.
24. Essentially, Counsel stressed that Court orders are not issued in vain and so should be complied with. In this matter, Counsel argued that the Respondent’s assertion that they had experienced difficulty in issuing the sought documents was an afterthought and misleading. He argued that John K. Barreh had revealed in his affidavit that the sought documents as advised by the Chief Land Registrar, David Nyandoro, were available.
25. In view of this, Counsel contended that the Respondent had not bothered to establish a reasonable ground for failing to supply this information so far. It was further noted that as per the Respondent’s response, it was evident that they were aware of this Court’s Orders yet failed to comply. Accordingly, Counsel urged the Court to allow the instant application.

Respondents’ Submissions

26. Principal State Counsel, Eve Mbede on the Respondent’s behalf filed submissions dated 11th October 2024 and outlined the issue for discussion as whether the applicant had met the threshold required in contempt proceedings.
27. Counsel submitted that the Respondent had not willfully disobeyed the Court orders as alleged. To buttress this point reliance was placed in *Samuel M. N. Mweru & Others v National Land Commission & 2 others* [2020] eKLR where it was held:

“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).

These requirements – that is the refusal to obey should be both wilful 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.”

28. Counsel stated that the applicant had failed to adhere to a number of procedures to enable them to discharge the charge. Particularly, Counsel submitted that the applicant had failed to supply the original title, differing dates, names and amounts on the discharge as required under Section 14(1) of the *Land Registration Act*. As such, Counsel stressed that the Respondent can only make entries in the register when supplied with the requisite documents. Counsel stressed that this was more so necessary as the registered proprietor in the subject parcel of land was not the applicant.

29. Reliance was placed in *Kimau & another v Registrar & 2 others* [2023] KEELC 20798 (KLR) where it was held that:

“Based on the facts as presented while relying on the legal provisions cited above as well as associating myself with the quoted decisions, I find that the Applicants have failed to prove that they furnished the Respondents with all the requisite documents so as to register their title, but the 1st Respondent declined. Further, since the registration of a title is a process, I am convinced that the Respondents did not have capacity to comply with the court order in the absence of the aforementioned documents. From the averments in the respective Affidavits, I opine that there is no indication that there was willful disobedience or bad faith on the part of the Respondents. Further, there is no demonstration of the Contemnors deliberate and intentional violation of the court’s dignity or authority. I am on the view that the Petitioners’/Applicants’ allegations herein have not met the threshold required in contempt proceedings as envisaged by the law as the standard of proof in the said proceedings is higher than the balance of probabilities and almost beyond reasonable doubt.”

30. Based on this, Counsel submitted that it was evident that the Registrar’s failure to issue the information was not willful as purported. This is because, the Respondent’s conduct was guided by the set legal procedure in view of discharging a discharge. Accordingly, Counsel argued that the Respondent had acted in good faith in this matter.

Analysis and Determination

31. It is my considered view that the issue that arises for determination is:

Whether the Respondent is in contempt of the Court Orders issued in the Ruling dated 15th November 2022 in view of the Interested Party’s directive dated 4th October 2022.

32. The law governing contempt of Court proceedings in Kenya was articulated in *Trusted Society of Human Rights Alliance v Cabinet Secretary for Devolution and Planning & 3 others* [2017] eKLR as follows:

“... In book *The Law of Contempt* learned authors Nigel Lowe & Brenda Sufrin state a follows: -

“Coercive orders made by the courts should be obeyed and undertakings formally given to the courts should be honoured unless and until they are set aside. Furthermore, it is generally no answer to an action for contempt that the order disobeyed or the undertaking broken should not have been made or accepted in the first place. The proper course if it is sought to challenge the order or undertaking is to apply to have it set aside.”



In *Econet Wireless Kenya Ltd vs Minister for Information & Communication of Kenya & Another*[11]Ibrahim J (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 or in respect of whom, an order is made by 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."

Rule of law makes it incumbent for all persons, without exception to respect court orders at all times. The whole purpose of litigation as a process of judicial administration is lost if court orders are not complied with. A party who knows of an order whether null or valid, regular or irregular cannot be permitted to disobey it.

12. It would be most dangerous to hold that suitors or their solicitors could themselves judge whether an order was null or valid; whether it was regular or irregular.
13. There is need to emphasize that the principle of law is that the whole essence of litigation as a process of judicial administration is lost if orders issued by court through the set judicial process in the normal functioning of courts are not complied with in full by those targeted and/or called upon to give due compliance/effect. A State organ or agency or person legally and duty bound to give due compliance must do so. Court orders cannot be issued in vain... Writing on proving the elements of civil contempt, learned authors of the book *Contempt in Modern New Zealand*[17] have authoritatively stated as follows:-

"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."
33. The binding nature of Court orders was also reiterated in the case of *Republic v Kenya School of Law & 2 others Ex parte Juliet Wanjiru Njoroge & 5 others* (2015) eKLR where the Court held that the orders are meant to be complied with and in case a party had any difficulties, the proper course to take was to go back to court and explain the difficulties faced in complying with the order but not to disobey it.



34. On the threshold of proof, the Court in *Sheila Cassatt Issenberg & another v Antony Machatha Kinyanjui* [2021] KEHC 5692 (KLR) explained thus:

“51. Contempt of Court is in the nature of criminal proceedings and, therefore, proof of a case against a contemnor is higher than that of balance of probability. This is because liberty of the subject is usually at stake and the applicant must prove willful and deliberate disobedience of the court order, if he were to succeed. This was aptly stated in *Gatharia K. Mutikika v Baharini Farm Limited* [1985] KLR 227, that:

A contempt of court is an offence of a criminal character. A man may be sent to prison. It must be proved satisfactorily.... It must be higher than proof on a balance of probabilities, almost but not exactly, beyond reasonable doubt. The standard of proof beyond reasonable doubt ought to be left where it belongs, to wit criminal cases. It is not safe to extend it to offences which can be said to be quasi-criminal in nature.

However, the guilt has to be proved with such strictness of proof as is consistent with the gravity of the charge... Recourse ought not to be had to process of contempt of court in aid of a civil remedy where there is any other method of doing justice. The jurisdiction of committing for contempt being practically arbitrary and unlimited, should be most jealously and carefully watched and exercised with the greatest reluctance and the greatest anxiety on the party of the judge to see whether there is no other mode which is not open to the objection of arbitrariness and which can be brought to bear upon the subject...

35. The Court thus emphasized:

“58.... And because contempt is of a criminal nature, it is always important that breach of the order be proved to the required standard; first, that the contemnor was aware of the order having been served or having personal knowledge of it, and second; that he deliberately and willfully disobeyed it...

61. The Cromwell J, writing for the Supreme of Canada in *Carey v Laiken*, 2015 SCC 17 (16th April 2015), expounded on the three elements of civil contempt of court which must be established to the satisfaction of the court, thus:

- i. The order alleged to have been breached “must state clearly and unequivocally what should and should not be done.” This ensures that a party will not be found in contempt where an order is unclear. An order may be found to be unclear if, for example, it is missing an essential detail about where, when or to whom it applies; if it incorporates overly broad language; or if external circumstances have obscured its meaning.
- ii. The party alleged to have breached the order must have had actual knowledge of it. It may be possible to infer knowledge in the circumstances, or an alleged contemnor may attract liability on the basis of the willful blindness doctrine.
- iii. The party alleged to be in breach must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels.”

36. The applicant accuses the Respondent of failing to comply with the order of the Court pursuant to adoption by the Court of Commission on Administration of Justice (CAJ) letter dated 4th October, 2022 in which the Court endorsed the decision of the CAJ requiring the Land Registrar, Ministry of



Lands to facilitate access to information and records held relating to request for information made by the Applicant's Advocate vide the letter of 18th May, 2022 within 7 days.

37. In the letter of 18th May, 2022; the body reads as follows:

“Re: Discharge Of Charge On Block Ic On L.r. 209/19116 (formerly L.R. No. 209/16027)- Paragon Electronics and I & M Bank Limited

We refer to the above matter in which we lodged a discharge of charge dated 25th January, 2022. The discharge is attached for your ease of reference.

The discharge was specifically in respect of charge registered on 17th January, 2008 between Paragon Electronics and I & M Bank Limited for Kenya Shillings Seventy-Five Million (Kshs. 75,000,000/-) on the aforementioned property.

Our application for discharge was rejected by your office on the grounds that the amount indicated on the charge, the date and the names of the parties indicated on the charge are different, however, the discharge we presented to your office are aligned in so far as the date, the charged amount and the names of the parties therein are concerned.

Following the comments made on the discharge, rejecting our request for discharge, it is clear your office is referring to some other charge against the title that we are not aware of. We therefore seek information pursuant to Article 35 of *the Constitution* and provisions of *Access to Information Act*, to be provided with full particulars including the names of the parties to such other charge, the date of the charge and the amount charged therein.

Yours faithfully,

Ako Advocates

Valentine Alaka

38. It is failure to respond to this letter that led to the Applicant approaching the Commission on Administration of Justice and finally, the Court, leading to order of 15th November, 2022 which the Applicant accuses the Respondent of refusing to comply with.
39. To succeed in this allegation for contempt; the applicant must satisfy ingredients of contempt as disclosed by the authorities discussed in the foregoing.
40. The Respondent in its response at first argued that it had encountered difficulties in accessing the sought information and also administrative constraints hence the lack of compliance. Thereafter in a Replying Affidavit sworn by a Land Registrar sworn on 16th October, 2024; the Respondent stated that the applicant was not provided with information due to obvious discrepancies in the request on the details for parcels of land for which discharge was sought.
41. The terms of the order were clear but the Respondent stated that the non-compliance was partly contributed to by administrative challenges and the discrepancies in the requests that it highlighted. The Respondent did not go to Court to seek clarification of the terms of the order or seek indulgence of the Court due to administrative challenges.
42. It is worthy to mention that access to information is a fundamental right and the State is obligated to issue the requested information under Article 35 of *the Constitution* unless the disclosure is barred under the exceptions set out under Section 6 of the *Access to Information Act*.



43. This was the position of the Court in *Khalifa & another v Principal Secretary, Ministry of Transport & 4 others; Katiba Institute & another* [2022] KEHC 368 where it was held that:
84. A reading of the provisions of *Access to Information Act* leaves no doubt that the act was enacted to give effect to the constitutional right of access to any information held by the State. And the formulation of the sections casts the exercise of this right in peremptory terms – the requester must be given access to the information so long as the request does not fall within the exceptions in section 6 of the act. Under our law, therefore, the disclosure of information is the rule and exemption from disclosure is the exception.
85. A reading of section 6 reveals that there are reasonable and justifiable limitations on the right of access to information. The purpose of section 6 is to protect from disclosure certain information that, if disclosed, could cause material harm to, amongst other things: the defence, security and international relations of the Republic; the economic interests and financial welfare of the Republic and commercial activities of public bodies; and the formulation of policy and taking of decisions by public bodies in the exercise of powers or performance of duties conferred or imposed by law.
86. However, the burden of establishing that the refusal of access to information is justified rests on the state or any other party refusing access. As was held in *President of the Republic of South Africa & others vs M & G Media Limited CCT 03/11 {2011} ZACC 32*:
- “The imposition of the evidentiary burden of showing that a record is exempt from disclosure on the holder of information is understandable. To place the burden of showing that a record is not exempt from disclosure on the requesting party would be manifestly unfair and contrary to the spirit of... *the Constitution*. This is because the requester of information has no access to the contents of the record sought and is therefore unable to establish that it is not exempt from disclosure under the Act. By contrast, the holder of information has access to the contents of the record sought and is able to establish whether or not it is protected from disclosure under one or more of the exemptions ... Hence ...the evidentiary burden rests with the holder of information and not with the requester.”
87. In order to discharge its burden under section 6, the state must provide evidence that the record in question falls within the description of the statutory exemption it seeks to claim. The proper approach to the question whether the state has discharged its burden under section 6 is therefore to ask whether the state has put forward sufficient evidence for a court to conclude that, on the probabilities, the information withheld falls within the exemptions claimed.”
44. Had the matter ended there, I would have convicted the Respondent for contempt. However, subsequent to the filing of contempt application there were further developments which I would like to highlight.
45. On 27th June, 2023; Ms. Mbeda informed court she was going impress upon the 1st Respondent to comply if she could be provided with the letter containing the documents the applicant had sought from the Respondent. The Court order for that day required the Petitioner’s Advocate to resupply Ms. Mbeda for the Respondent with the Applicant’s letter of 18th May, 2022 and the one of 4th July, 2022 by close of business that day among other directions.
46. On 24/7/2023; Ms. Mbeda for the Respondent informed Court that she had received the documents from the client and would serve the documents by close of business that day and if the Applicant could thus confirm that it is the documents they had initially sought; that then would conclude the matter.



Mr. Juma who appeared for the applicant that day sought a further mention date. Indeed, the order of the Court was as follows:

“Mention 3rd October, 2023 to confirm if the documents served by the Respondent are the ones the Petitioner required from the Respondent.”

47. On 3/10/2023; Ms. Mbede said:

“Last time, we were in Court, we confirmed service of documents applicants had sought on 18th July, 2022. They were to revert and confirm if those are documents they sought. We can seek more time to confirm”

48. Mr. Ataka for the Applicant reacted thus:

“The letter was received on 18/7/2023; two issues:

1. Information provided does not target the charge referred to in the letter of 18/5/2022- which targeted a charge which was a charge registered against my client title
2. We have ascertained that even sub-lease referred to by AG, it ceased due to underlying irregularities

I need to be further provided time to explain ourselves in a further affidavit. I propose we do file a further affidavit. We can file within 14 days.

49. Respondent’s Counsel expressed surprise stating thus:

“We thought the documents would settle the matter; they can file a further affidavit. Upon service, we can put in a response.”

50. The Court thus proceeded to allow the Applicant 14 days to file a further affidavit and 14 days to the Respondent and fixed the matter for mention on 28/11/2023. On 28/11/2023; this Court was involved in a Bench matter hence the Deputy Registrar adjourned the matter to 20/5/2024.

51. On 20/5/2024; Mr. Ataka remarked:

“We are still making progress to deal with contempt application. I hope we can avoid contempt application. I intend to give a phone call to Ms. Mbede. We can mention the matter in a month.”

52. This was conceded to by Counsel for the Respondent.

53. At the next mention, Mr. Ochieng appeared holding brief for Mr. Ataka was told Court negotiations had failed. He stated:

“Negotiations have failed. The Land Registrar has not provided the information and Mr. Ataka asked we proceed with contempt application dated 24/2/2023”

54. Ms. Mbede again expressed surprise at this turn of events stating:

“...I am surprised by Counsel to say negotiations have failed yet they did not approach us or our client yet that is what they had indicated when provided information. We had filed



grounds dated 22/6/2023; with the turn of events, we request for time to respond the application, I seek 21 days...”

55. The Court gave directions and allowed 14 days for the Respondent to file response and corresponding timelines for rejoinder and submissions by the parties fixing the matter for mention on 22/10/2024.
56. On 22/10/24; Mr. Ochieng appeared holding brief for Mr. Ataka while Mr. Kuloba held brief for Ms. Mbeda for the Respondent. Mr. Ochieng confirmed being served with the replying affidavit and submissions of the Respondent. On their part, they indicated they relied on submissions filed on 24th February, 2023. The Court thus proceeded and fixed the matter for the ruling.
57. Two important issues to note from the above Court record:
 - a. One, when on 3/10/2023 Ms. Mbeda indicated that via the letter dated 3rd October, 2023 that they had supplied the documents that the Applicant had sought in the letter to the Respondent dated 18/5/22; Mr. Ataka on record confirmed that he had received the letter and the documents but according to him, they did not conform to their requirements. He sought to file a further affidavit to explain the deficiency but this was never done.
 - b. Two, even 29th July, 2024 after the Respondent had sought time to put a replying affidavit to cement its position that it had complied and served the documents subsequent to the filing of the Contempt Application; this Court did grant the Applicant corresponding leave to put in a further affidavit in reaction to that information but again the Applicant did not seize that opportunity. Instead, the applicant went on to rely on what it had filed originally, including its original submissions.
58. The most important issue to determine here is whether the Respondent supplied the requested information contained in the Applicant’s letter dated 18th May 2022 as that was the basis of the Court order. This can only be ascertained by examining the information requested by the of the Applicant in its letter of 18th May, 2022 vis-à-vis the letter by the Respondent dated 18th July 2023 that the Respondent insist was used to forward the information that the Petitioner had sought and which letter, Mr. Ataka acknowledged receipt before this Court on 3rd October, 2023.
59. The Applicant in its letter of 18th May, 2022 sought the following:...to be provided with full particulars including the names of the parties to such other charge, the date of the charge and the amount charged therein.’
60. The Respondent in its letter of 18th July, 2023 indicated that it supplied information in reference to: the mother title for land parcel LR.No.209/16027, IR No. 102763, the charge instrument over land parcel IR.111891/2 and the sub-lease for IR No.111891 to the Applicant.
61. The supplied information in my view tallies with descriptive information that the Applicant had specified in the letter of 18th May, 2022. Considering that the Applicant did not file a further affidavit that would have demonstrated the insufficiency in the information provided despite seeking and being granted leave to do so, this Court does not have any tangible ground upon which it can fault the information as provided for it appears compliant. I do not therefore find that the Respondent intentionally failed to comply with the subject Court Order. In fact, from the Respondent conduct in Court and correspondence as captured in the Court proceedings alluded to above, this is not a party that can be said to be deliberately refusing to comply with the Court order.
62. The upshot is that in the circumstances of this case, the Application for contempt is not proved and is hereby dismissed with costs to the Respondent.



DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 18TH DAY OF FEBRUARY, 2025.

L N MUGAMBI

JUDGE

