



**Odhiambo & another v Muchuna (Commercial Case E480 of 2022)  
[2025] KEHC 1025 (KLR) (Commercial and Tax) (3 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 1025 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL CASE E480 OF 2022  
JWW MONG'ARE, J  
MARCH 3, 2025**

**BETWEEN**

**JOY LINDA ODHIAMBO ..... 1<sup>ST</sup> PLAINTIFF**

**EDU PLUS AFRICA LIMITED ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**HUMPHREY KASEMBELI MUCHUNA ..... DEFENDANT**

**RULING**

1. What is before this court is the Applicant's Notice of Motion application dated 24<sup>th</sup> May 2024 which seek orders to commit the Defendant/Respondent to civil jail pursuant to the orders of this court issued on 25<sup>th</sup> April 2024 that found the Defendant/Respondent in contempt of this courts orders.
2. The Application is supported by the grounds set out on its face and thee supporting and supplementary affidavit of the Plaintiff sworn on 24<sup>th</sup> May 2024 and 5<sup>th</sup> June 2024, respectively.
3. The import of the present application is that the Defendant/Respondent having been served with the orders of this court, ignored and or failed to comply with the said orders. The orders of the Court sought to restrain the Defendant from interfering with the suit property and compel him to produce books of accounts, banking slips, bank statements and audited accounts of the 2<sup>nd</sup> Plaintiff in his custody from July 2019. The Plaintiff/Applicant confirms that the Defendant was served with the said orders on 21<sup>st</sup> May 2024. It is the position of the Applicant that the failure by the Respondent to comply with the orders of the Court brought the dignity off the court into disrepute and therefore the court should find that the Respondent is in contempt of the court order.
4. The Respondent has responded to the application herein through its replying affidavit of 10<sup>th</sup> June 2024 and an affidavit of verification and Notice to Produce dated 30<sup>th</sup> June 2024. The Defendant



through the said response acknowledges having been served with the court orders confirms that the documents sought thereof were in his custody. Subsequently and on 30<sup>th</sup> May 2024, the Defendant filed a verification of facts affidavit and a Notice to produce which was not addressed to any particular party. This prompted the Plaintiff to put in a supplementary affidavit of 5<sup>th</sup> June 2024 denying that the documents being sought were in her custody. She further reiterated that if, as alleged, the documents sought had all along been in her custody, then this would have been brought out by the Defendant earlier and before the court contempt order was issued. She maintains that the verification affidavit contradicted the Defendant's Advocates letter of 20<sup>th</sup> May 2024 through which they had acknowledged being in possession of the documents. It is the position taken by the Applicant that the Defendant has all along been in charge of the company and the custodian of the documents therein.

5. The Court in Republic vs County Assembly of Garissa & others JR No. E008 of 2023 KEHC 25957(KLR)(29<sup>th</sup> November 2023) the court stated as follows:-

“To allow Court Orders to be disobeyed would be to tread the road of anarchy. If Orders of the Court can be treated with disrespect, the whole administration of justice is brought into scorn....if the remedies that the courts grant can be ignored, then there will be nothing left for each person but to take the law into his hands. Loss of respect for the courts will quickly result into destruction of our society.”

6. I agree with the above holding by the court. It is essential for the maintenance of law and order that the authority and dignity of the court is upheld at all times. Where a court of law has issued orders and there is no appeal preferred against such orders and/or orders from a superior court setting them aside have been obtained, then it follows therefore the said court orders are to be obeyed in their entirety.
7. In the present application, this court issued orders for production of certain documents necessary for the court to make a just determination of the issue before it. The same were duly served and the service thereof acknowledged by the Defendant/Respondent and or/his legal counsel. No plausible explanation as to why there has been disobeyed has been offered by the Defendant. I therefore find merit in the present application and allow the same as prayed.
8. In conclusion therefore, I find that the Defendant/Respondent is guilty of contempt of court orders issued by this court on 25<sup>th</sup> April 2024. The Defendant/Respondent is hereby issued with a Notice to Show Cause why he should not be committed to Civil jail for a period not exceeding six(6) Months as punishment for the said disobedience. The Defendant has 30 days from the date of this ruling to purge the contempt failing which appropriate committal orders shall be issued. Costs of the Application herein are awarded to the Plaintiff/Applicant. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 3<sup>RD</sup> DAY OF MARCH 2025**

.....

**J.W.W. MONG'ARE**

**JUDGE**

In the Presence of:-

1. Mr. Ochanda for the Plaintiff/Applicant.
2. Mr. Otieno for the Defendant.
3. Amos - Court Assistant

