



Lunchbowl Network Foundation Kenya Limited v Church Commissioners for Kenya & another; McGreevy (Contemnor) (Miscellaneous Application E879 of 2024) [2025] KEHC 4800 (KLR) (Commercial and Tax) (8 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4800 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E879 OF 2024**

JWW MONG'ARE, J

APRIL 8, 2025

BETWEEN

LUNCHBOWL NETWORK FOUNDATION KENYA LIMITED PLAINTIFF

AND

CHURCH COMMISSIONERS FOR KENYA 1ST RESPONDENT

ALL SAINTS CATHEDRAL DIOCESE 2ND RESPONDENT

AND

SALLY MCGREEVY CONTEMNOR

RULING

1. By a Notice of Motion dated 18th October 2024, the Applicant (“Lunchbowl”) instituted the present suit stating that on 19th December 2018, it entered into a License Agreement with the Respondents (“Church Commissioners” and “All Saints”) for the occupation of a school namely ACK Good Samaritan located over a portion of L.R No. 2259/797 (Orig No. 2259/79/2), Nairobi for a period of 10 years (“the License Agreement”). Lunchbowl states that it has been running the school as a charity where they offer free education to more than 410 destitute, orphaned, vulnerable, special needs under-aged children who largely hail from Informal settlement in Kibera.
2. A dispute has arisen over the performance and obligations of the parties in respect of the License Agreement. Such disputes, as per the License Agreement, are to be resolved by inter alia, arbitration and Lunchbowl had, through this application, sought interim reliefs pending the hearing and determination of the arbitration process. On 31st October 2024, the court granted temporary orders pending hearing and determination of the application to wit; that the status quo remains as per



the License Agreement and that the Respondents be restrained from interfering with the peaceful existence, the management and occupation of the school.

3. The Respondents then filed an application dated 6th January 2025 stating that Lunchbowl and the 2nd Contemnor("SALLY") are in contempt of the aforementioned orders of the court and thus sought that the court finds them as such and that they be punished by being committed to civil jail for a period not exceeding 6 months or a fine of Kshs.1,000,000.00/=. The Respondents also seek that SALLY deposits her passport with the Deputy Registrar of the court. This application is supported by the grounds on its face and the affidavits sworn by Peter Gachuhi, the advocate on record for the Respondents sworn on 6th January 2025 and those of Rev. Capt. Lilian W. Karinga, the Manager of Anglican Church of Kenya St. Nicholas Community Development Center(CDC) also sworn on 6th January 2025 and 27th January 2025 respectively. The application is opposed by Lunchbowl through the replying affidavit sworn by its Trustee and Director, Stuart McGreevy, sworn on 14th January 2025 and by Sally through her replying affidavit sworn on 14th January 2025.
4. The Respondents application has been canvassed by way of written submissions. However, on 5th February 2025, Lunbowl sought to withdraw their application which withdrawal was allowed by the court on the same day. A withdrawal amounts to a discontinuance which is an action that has finality. In the consequence, the suit dissipates and there is nothing left before the court to act upon (see Gachu & another v Manyeki & another [2024] KEHC 5621 (KLR)). In withdrawing the application dated 18th October 2024, Lunchbowl in essence withdrew the suit and nothing remains pending before the court including the interim orders of October 31, 2024 and the Respondents' contempt application. As such, the application dated January 6, 2025 is struck out but with no order as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 8TH DAY OF APRIL 2025

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J.W.W. MONG'ARE

JUDGE

In the Presence of:-

Ms. Mwongera holding brief Mr. Etemesi for the Plaintiff and Contemnor.

Mr. Wasonga holding brief for Mr. Gachuhi for the Defendant.

Amos - Court Assistant

