



**In re Estate of Emily Wairimu Chira (Deceased) (Succession Cause 2462 of 2009)  
[2025] KEHC 13234 (KLR) (Family) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13234 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
FAMILY  
SUCCESSION CAUSE 2462 OF 2009  
HK CHEMITEI, J  
SEPTEMBER 25, 2025  
IN THE MATTER THE ESTATE OF EMILY WAIRIMU CHIRA (DECEASED)**

**BETWEEN**

**NANCY WANJIRU NJUGUNA ..... APPLICANT**

**AND**

**CATHERINE NJERI NG'ANG'A ..... RESPONDENT**

**RULING**

1. This ruling relates to the application dated 26<sup>th</sup> March, 2025 filed by the Applicant, Nancy Wanjiru Njuguna, seeking for ORDERS THAT:-
  1. Catherine Njeri Nganga, the Respondent herein be cited for contempt of the court order granted on 14<sup>th</sup> May, 2019 and be committed to civil jail for a period of six (6) months and/or her properties be attached and/or be fined as this honourable court may deem fit and just.
  2. The costs of this application be provided for.
2. The application is based on the grounds thereof and supported by affidavit sworn by Nancy Wanjiru Njuguna on 26<sup>th</sup> March, 2025.
3. She avers inter alia that on 23<sup>rd</sup> February, 2019, the Applicant sought revocation of the certificate of confirmation of grant issued on 26<sup>th</sup> January, 2016 to Catherine Njeri Nganga, Beth Nyambura Kiribu and Samuel Ciira Kibiro. She also moved the court to cancel the sale of Title No. Githunguri/Gathangari/2304 to third parties, Stephen Chege Kiarie and Teresia Wanjiku Ndungu.
4. On 14<sup>th</sup> May, 2019, in the presence of all parties, the court issued the following orders: a) Revocation and cancellation of the sale and transfer of Githunguri/Gathangari/2304 to the said third parties. b)



- Direction to the administrators to file a fresh mode of distribution that includes the Applicant within 45 days of the judgment. c) A conservatory order restraining any sale, transfer, or alienation of the property pending distribution. These orders, served on the Respondent together with a penal notice, were not obeyed.
5. That dissatisfied, the Respondent lodged Appeal No. 288 of 2019 in the Court of Appeal, which was heard on the merits and dismissed with costs on 21<sup>st</sup> February, 2025. Despite subsequent opportunities granted by the court, the Respondent has persistently refused to comply, amounting to willful disobedience of court orders. Such conduct is a direct affront to judicial authority and undermines the rule of law. Compliance with court orders is mandatory, not discretionary.
  6. The Respondent on her part did not file any response to the application save for submissions which are on record.
  7. The Applicant has filed written submissions dated 3<sup>rd</sup> June, 2025 placing reliance on the following:
    - a. In Republic vs Mohammed & Another, Petition 39 of 2018 (2019) K ESC 47 (KLR) (15. 3. 2019) (Ruling) where the court stated as follows: “An act in contempt of court constitutes an affront to judicial authority and the court has liberty and empowerment to mete out the penalty for such conduct in a proper case, the object to vindicate the court’s authority, secondly to safe guard its processes so as to sustain the rule of law and the administration of justice. Striving to abide by court orders is not an option, It protects the dignity and authority and rule of law. It must be zealously guarded by the court by dealing firmly with any person who deliberately disobeys court orders or attempts to scuffle the court’s process. In Steward Robertson vs Her Majesty’s advocate (2007) HCAC63, the court said, “contempt of court is constituted by conduct that denotes willful defiance of or disrespect towards the court or that willfully challenges or affronts the authority of the court or the supremacy of the law whether in civil or criminal proceedings.”
  8. The Respondent has filed written submissions dated 12<sup>th</sup> June, 2025 placing reliance among others on the following:-
    - a. Mutitika v Bahari Farm Ltd [1985] KLR 227 where the court stated as follows: “The power to punish for contempt is a powerful tool which should only be exercised when it is clear that the breach has been deliberate and willful. A court must be satisfied that the alleged contemnor had knowledge of the court order and deliberately disobeyed it.”
    - b. Republic v Principal Secretary, Ministry of Defence Ex Part George Kariuki [2019] eKLR where the court pronounced itself as follows: “Contempt proceedings are quasi – criminal in nature, and thus the standard of proof is higher than on a balance of probabilities, closer to beyond reasonable doubt. Knowledge and service of the order: The alleged contemnor must be shown to have knowledge of the court order and willfully disobeyed it.”

### **Analysis And Determination**

9. I have read the application before this court and the rival submissions; and address them as follows:
10. The Court in Kenya Human Rights Commission v Attorney General & Another [2018] eKLR stated as follows:-

“Section 5 of the [Judicature Act](#) states 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.”

11. Kenya Tea growers Association -vs. Francis Atwoli & 5 Others, Petition No. 64 of 2010 where Justice Lenaola also opined as follows

“...in the case before me, I am more satisfied that even at higher level of beyond reasonable doubt, when an individual has been served with and/or has knowledge of a court order but not only ignores it but in fact incites others to do the same, the threshold for contempt has been met. Francis Atwoli in fact went further to arrogate himself the decision to determine when the strike should end despite the fact that the court order had stopped it.....His contempt was obvious and his conduct and words can attract no other finding.”

12. In light of the foregoing, I think it is fair to state that the Respondent all along has been conscious of the orders of this court of 14<sup>th</sup> May 2019. She chose not to respond to the application either by way of affidavit, grounds of opposition or even by way of a preliminary objection on a point of law. Responding through submissions is not sufficient in my view and not one of the ways of purging contempt especially where there are factual facts to be counteracted.
13. It is also apparent that the Court of Appeal upheld the decision of this court and therefore the Respondent has no other option but to comply.
14. In the premises I do find the application merited and direct as follows:-
- (a) The Applicant is hereby granted 14 days to comply with the orders of this court dated 14<sup>th</sup> May 2019 and in default she shall be arrested and placed in a civil jail for a period of sixty days with no option of a fine.
  - (b) The officer in charge of the nearest police station shall effect the said arrest.
  - (c) Costs of this application to the Applicant.

**DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 25<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**H K CHEMITEI**

**JUDGE**

