



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Jackson Guto Nyaboga (Deceased) (Probate & Administration  
E007 of 2021) [2023] KEHC 4138 (KLR) (11 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 4138 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
PROBATE & ADMINISTRATION E007 OF 2021**

**WA OKWANY, J**

**MAY 11, 2023**

**BETWEEN**

**NICK ABOKO OMARI ..... APPLICANT**

**AND**

**THOMAS MOMANYI GUTO ..... 1<sup>ST</sup> PETITIONER**

**GEORGE MACRIDS GUTO ..... 2<sup>ND</sup> PETITIONER**

**ALICE MOKEIRA ..... 3<sup>RD</sup> PETITIONER**

**MARY NYASUGUTA ..... 4<sup>TH</sup> PETITIONER**

**AND**

**MOSES NYABOGA GUTO ..... OBJECTOR**

**RULING**

1. In a ruling delivered on April 27, 2023, this court found that the 1<sup>st</sup> Respondent herein, Thomas Momanyi Guto, had disobeyed this court's orders and was therefore guilty of contempt of court.
2. I have carefully considered the mitigation tendered by the 1<sup>st</sup> Respondent's Advocate, Mr Nyambati, and the fact that the protagonists in this succession cause are siblings and the beneficiaries of the estate of their later father, Jackson Guto Mbogo (deceased).
3. Disobedience of court orders is a grave matter as it shakes the very foundation of the Rule of Law and impairs the proper administration of justice. Contempt is conduct that defies the dignity of a court.



This court reiterates the sentiments expressed by Romer LJ in *Hadkinson v Hadkinson* [1952]P 288 that: -

“It is plain and unqualified obligation of every person against or in respect of whom an order is made by a 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 even void” (Emphasis added)

Further, Lord Donaldson MR said in *Johnson v Walton* [1990] 1 FLR350 at 352 stated:-

“It cannot be too clearly stated that, when an injunctive order is made or when an undertaking is given, it operates until it is revoked on appeal or by the court itself, and it has to be obeyed whether or not it should have been granted in the first place.” (Emphasis added).

4. This court reiterates that parties must comply with court orders irrespective of what they think of the said orders.
5. Having found that the 1<sup>st</sup> Respondent is guilty of contempt, I find that the contemnor should be punished for contempt so as to uphold the dignity and authority of the court so as to ensure compliance with court’s direction, observance and respect of due process of law, preserve an effective and impartial system of justice, and maintain public confidence in the administration of justice by court.
6. After weighing all the circumstances of this case and the fact that the 1<sup>st</sup> Respondent has undertaken not to repeat such conduct, I find that a non-custodial sentence for contempt will suffice.
7. Consequently, I sentence him to serve one (1) month Probation with a rider that he shall execute a security for good future conduct/behaviour.
8. It is so ordered.

**RULING DATED, SIGNED AND DELIVERED AT NYAMIRA VIA MICROSOFT TEAMS THIS 11TH DAY OF MAY 2023.**

**W. A. OKWANY**

**JUDGE**

