



**Ogori v Nyamira County Assembly & 7 others; Nyamira County
Assembly Service Board (Interested Party) (Petition E008 of 2024)
[2024] KEHC 16255 (KLR) (16 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16255 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
PETITION E008 OF 2024
WA OKWANY, J
DECEMBER 16, 2024**

BETWEEN

ENOCK OKERO OGORI PETITIONER

AND

NYAMIRA COUNTY ASSEMBLY 1ST RESPONDENT

CLERK - NYAMIRA COUNTY ASSEMBLY 2ND RESPONDENT

KENNEDY ATUTI 3RD RESPONDENT

DUKE MASIRA 4TH RESPONDENT

GEORGE ABUGA 5TH RESPONDENT

JULIUS NYANGENA 6TH RESPONDENT

SAMUEL OGETO 7TH RESPONDENT

JOSIA MANGERA 8TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY SERVICE BOARD INTERESTED PARTY

RULING

1. In its Ruling rendered 4th November 2024, this court found that the Respondents were guilty of contempt of the conservatory Orders issued on 11th October 2024 restraining them from interfering with the Petitioner’s discharge of his functions as Speaker of the 1st Respondent, pending the hearing and determination of the Application.



2. The Respondents were subsequently called upon to show cause why they should not be punished for contempt of the said court orders. The 2nd to the 8th Respondents thereafter appeared before this court in person in the company of their legal counsel on 16th December 2024. The Respondents presented their personal mitigation and apologies for the disobedience of the court order and undertook to henceforth comply with all the orders issued by the court.
3. The Petitioner, on the other hand, urged this court to take stern measures against the Respondents for their blatant disobedience of the court order. The Petitioner noted that the Respondents had not demonstrated that they had purged the contempt.
4. The law on contempt is governed by Section 5 of the *Judicature Act* which also empowers this Court to mete any appropriate punishment on parties who disobey its Orders in order to uphold its authority and dignity. Contrary to the notion that the law on contempt seeks to protect the Judiciary's interests, this Court is cognizant of and is unbowed to the fact that it stands as the bulwark of the administration of justice and must jealously guard against abuse of court processes and disregard of its orders which are paramount to the principles of Rule of Law. The editors of Borrie and Lowe's Law of Contempt 2nd Edition, (1983) observed as follows on the issue of contempt:-

“The rules embodied in the law of contempt of court are intended to uphold the effective administration of justice. As Lord Simon said in *A-G v Times Newspapers Ltd* they are the means by which the law vindicates the public interest in the due administration of justice. The law does not exist, as the phrase ‘contempt of court’ might misleadingly suggest, to protect the personal dignity of the judiciary nor does it exist to protect the private rights of the parties or litigants...Contempt of court plays a key role in protecting the administration of justice. It is an impotent adjunct to the criminal process and provides the final sanction in the civil process.”

5. I have carefully considered the mitigation presented by the contemnors and their Counsel. I have also considered the Petitioner's sentiments. I note that the Contemnors, are elected Members of the County Assembly who play the critical function of steering the activities of the County of Nyamira. The Respondents have honoured the summons and appeared before Court in person to show cause and mitigate for their actions. I have also noted, from their mitigation, that the actions leading to contempt were neither intended through ill-will nor executed in wilful and sheer disregard of this Court's Orders.
6. The Contemnors have expressed their remorse and come across as honest and genuine in their plea for a reprieve. This Court takes cognizance of the plight of the Contemnors that are actuated by the wrangles that have been experienced in the County Assembly since the commencement of this matter. It did not escape this Court's attention that the 6th Respondent submitted that his house was razed down by arsonists as a result of the differences arising from this matter.
7. The Contemnors also indicated that they are living in fear owing to the tension arising from the case. I hold the view that in the wider interests of justice and based on the existing conflicts, disagreements and tension between the County officials, it is likely that taking further precipitate punitive action against the Contemnors will not only be counterproductive but will also heighten and worsen the tension that is already prevailing in the County.
8. This Court takes the view that the action, by the Contemnors, to personally appear before it and present their apologies paints them as persons who are genuinely remorseful and are intent on mending their ways. I am therefore of the view that the Contemnors should be granted the opportunity to



continue discharging their duties, as elected leaders, but with a rider that they should be beacons of good example to their electorate by maintaining peace and order in the conduct of their affairs.

9. It is further, the recommendation of this Court that the Contemnors should take this pardon, by the Court, as an opportunity to seek and embrace amicable resolutions for the existing conflicts and misunderstandings amongst the County Assembly Members. By virtue of their position as law makers in the County Assembly, the Contemnors should be at the forefront in advocating for obedience of court orders.
10. I am satisfied that the Contemnors have adequately purged the contempt and are deserving of the mercy of this Court. This Court hereby fully pardons the Contemnors but with a stern warning that the Court will not hesitate to mete out severe punishment for any further disobedience of its Orders. I am guided by the decision in *Republic vs. Public Procurement Administrative Review Board; Ex parte Applicant: Guardforce Group Limited; Pwani University & 2 others(Interested Parties), Judicial Review No. 32 of 2020.*
11. It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NYAMIRA VIA MICROSOFT TEAMS THIS 16TH DAY OF DECEMBER 2024.

W. A. OKWANY

JUDGE

