



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW MISCELLANEOUS APPLICATION NO. 4 OF 2019

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO
COMMENCE PROCEEDINGS IN THE NATURE OF JUDICIAL REVIEW**

AND

**IN THE MATTER OF SECTIONS 8 AND 9 OF THE LAW
REFORM ACT CHAPTER 26 OF THE LAWS OF KENYA**

AND

**IN THE MATTER OF THE GOVERNMENT PROCEEDINGS
ACT CAP 40 OF THE LAWS OF KENYA**

AND

**IN THE MATTER OF ORDER 53 OF THE CIVIL PROCEDURE
RULES AND ALL OTHER ENABLING PROVISIONS OF THE LAW**

BETWEEN

FELICITY MUTETE MUTULA.....APPLICANT

-AND-

NAIROBI CITY COUNTY GOVERNMENT

(BEING THE NATURAL & PRESUMPTIVE LEGAL SUCCESSOR

OF THE DEFUNCT CITY COUNCIL OF NAIROBI).....RESPONDENT

RULING

This ruling is in respect of the applicant's motion dated 8 November 2019. The prayers in the motion have been framed as follows:

“1. That this Honourable Court be pleased to find and hold the Respondent's County Executive Officer Committee Member of Finance in contempt of Court.

2. That the contemnor be committed to civil jai for a period of 6 months for having disobeyed and contemned the order granted on 4th June 2019 in such place as this Court may please.

3. That this Court finds that the actions of the contemnor in contempt.

4. *That this Honourable Court be pleased to grant such orders and directions as may be appropriate in the circumstances.*

5. *That the costs of this application be borne by the contemnor.”*

In the affidavit sworn by the applicant in support of the motion, it is deposed that on 24 May 2013, the applicant obtained a judgment against the respondent, apparently in a magistrates' court, of Kshs. 129,500/= and costs. The award continues to accrue interest of 12% per annum. On 19 June 2014, the respondent's burden of costs was revised to 75% of the total costs payable and on 24 November 2014 the decretal amount was certified at 205, 241/=

By a motion dated 10 May 2016, the applicant sought in the present suit for an order of mandamus to pay the decretal amount and costs. On 4 June 2019 the order was issued according to which the respondent was ordered to pay Kshs. 409,171/=.

The contemnor is said to have been notified of the order of mandamus vide a letter dated 17 June 2019. However, he disregarded the order and has either refused, neglected or ignored to pay settle the amount owing.

Neither the alleged contemnor nor the respondent filed any response to the application.

It is the applicant's case that the respondent's County Executive Officer for finance is the contemnor and should be punished in accordance with section 5 of the Judicature Act.

As far as leave is concerned, the applicant submitted that no leave is necessary because it has been held by the Court of Appeal in **Christine Wangari Gacheche vs Elizabeth Wanjiru Evans & 11 Others [2014] eKLR** that leave is not necessary where committal proceedings relate to a breach of a judgment or order of the Court.

It was also submitted on behalf of the applicant that the dignity and authority of the Court ought to be respected and protected if the Court is to continue performing its duties effectively.

Whenever the question of contempt of court has arisen in our courts we have always resorted to section 5 of the Judicature Act, cap. 8 for guidance; that section reads as follows:

Contempt of court

(1) 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 such power shall extend to upholding the authority and dignity of subordinate courts.

(2) An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the High Court.

In **Christine Wangari Gacheche versus Elizabeth Wanjiru Evans & 11 Others (2014) eKLR** the Court of Appeal reiterated that the only statutory basis for contempt of court as far as the Court of Appeal and the High Court are concerned is this provision of the law. It was, however, optimistic that the Kenya Contempt of Court Bill, 2013 would be tabled in parliament and passed into law so that we do not have to follow the English law and practice in contempt of court applications. The Bill was indeed debated and as a result the Contempt of Court Act No. 46 of 2016 was enacted; this piece of legislation was, however, short-lived because it was declared unconstitutional in November 2018 in **Kenya Human Rights Commission versus Attorney General & Another (2018) Eklr**. Apparently, it had been passed without public participation. The implication of this decision is that we reverted to Section 5 of the Judicature Act as the legal basis of the law on contempt.

But a critical look at this provision of the law shows that there is nothing much in it in terms of substance and procedure other than the obligation placed upon these courts to ascertain, at any given time, the law applicable in England for punishment and, certainly, the procedure for committal for contempt. In discussing this point the court of Appeal noted that it is up to the Court of Appeal (and I add, this Honourable Court) to ascertain the applicable law of contempt in the High Court of Justice in England, at the time an application (for contempt) is brought. To this end the court adopted the words of H.G. Platt, J. and D.C Porter, Ag. J. (as they then were) In the matter of an application by **Gurbaresh Singh & Sons Ltd, Miscellaneous Civil Case No. 50 of 1983** where they noted as follows:

“The second aspect concerns the words of section 5- “for the time being”, which appear to mean that this court should endeavour to ascertain the law in England at the time of the trial, or application being made. Sometimes it is not known, or may not be known exactly, what powers the court may have. It seems clear that the Contempt of Court Act 1981 of England is the prevailing law and the procedure is still that set out in order 52 of the Supreme Court Rules.”

The court further interrogated what the “High Court of Justice of England” entails and noted that according to the court system in England, it is that level of the court that comprises three divisions; the Queen's Bench, the Chancery and the Family Divisions. The court's jurisdiction to punish for contempt of court is drawn from both the statute, which is the Contempt of Court Act, 1981 and the common law.

However, the procedure for contempt of court proceedings, including commencement, prosecution and punishment for contempt of court was, until 2012, encapsulated in **Order 52 Rules 1 to 4 of the Rules of the Supreme Court (RSC)**; these Rules are made under the Supreme Court of Judicature Act, 1873, otherwise known as the Judicature Act, 1873. The Judicature Act, 1873 abolished a cluster of courts in England and Wales dating back to medieval periods, some with overlapping judicial powers, and in their place established the Court of

Appeal, the High Court and the Crown Court all together to be known as the Supreme Court of Judicature. The Supreme Court of Judicature shouldn't be confused with the Supreme Court of the United Kingdom which was established only on 1st October, 2009 to assume the judicial functions of the House of Lords.

The court then summarised the procedure for contempt of court proceedings under Order 52 of the Rules of the Supreme Court Judicature as follows:

“

- i. An application to the High Court of England for committal for contempt of court will not be granted unless leave to make such an application has been granted.*
- ii. An application for leave must be made ex parte to a judge in chambers and be supported by a statement setting out the particulars of the applicant as well as those of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit verifying the facts relied on.*
- iii. The applicant must give notice of the application for leave not later than the preceding day to the Crown Office.*
- iv. Where an application for leave is refused by a judge in chambers the applicant may apply afresh to a divisional court for leave within 8 days after the refusal by the Judge.*
- v. When leave has been granted, the substantive application by a motion would be made to a divisional court.*
- vi. The motion must be entered within 14 days after the granting of leave; if not, leave shall lapse.*
- vii. The motion together with the statement and affidavit must be served personally on the person sought to be committed, unless the Court thinks otherwise.”*

On 1 October 2012 the Civil Procedure (Amendment No. 2) Rules, 2012 came into force and Part 81 thereof effectively replaced Order 52 of the Rules of the Supreme Court in its entirety. This particular part provides different procedures for different forms of violations. For instance:

Rules 81.4-is on committal for “breach of a judgment, order or undertaking to do or abstain from doing an act.”

Rule 81.11- is on committal for “interference with the due administration of justice” (applicable only in criminal proceedings).

Rule 81.16 – is on committal for contempt “in the face of the court”, and

Rule 81.17 – is on committal for “making false statement of truth or disclosure statement.”

Rule 81.4 (breach of judgment, order or undertaking) would be the relevant rule in the present application. The Court of Appeal explained that the application must be made in the proceedings in which the judgment or order was made or the undertaking given. As far as its form is concerned, the court said “the application notice must set out fully the grounds on which the committal application is made and must identify separately and numerically, each alleged act of contempt and be supported by affidavit(s) containing all the evidence relied upon”.

Further “the application notice and the affidavit or affidavits must be served personally on the respondent unless the court dispenses with service if it considers it just to do so, or the court authorizes an alternative method or place of service”.

In a more recent decision in **Woburn Estate Limited v Margaret Bashforth [2016] eKLR**, the same Court suggested that courts in Kenya do not always have to keep tabs on the applicable law in England in order to punish for contempt. While discussing **Christine Wangari Gachege versus Elizabeth Wanjiru Evans & 11 Others (supra)**, the Court stated as follows:

“When Christine Wangari Wachege (supra) was decided on 14th February, 2014 the only substantive law with respect to the general power of the High Court or this Court to punish for contempt of court was section 5 of the Judicature Act. Of course, in respect of injunctions section 63 (e) of the Civil Procedure Rules, makes provisions. The practice has therefore with regard to the general powers, been to ascertain both the prevailing substantive law and procedure in England at the time the application was brought. Today that position has drastically changed, starting with the establishment of the Supreme Court which was not envisaged when section 5 of the Judicature Act was enacted. By Act No.7 of 2011, Article 163 (9) of the Constitution was operationalised by the enactment of the Supreme Court Act (CAP 9A), which among other things, makes express provision for the power of the Supreme Court to punish for contempt. Under section 29 of the Environment and Land Court Act, it is an offence punishable, upon conviction to a fine of not exceeding Kshs. 20,000,000 or to imprisonment for a term not exceeding two years, or to both, if any person refuses, fails or neglects to obey an order or direction of the court given under the Act. In contrast, under section 20 (7) and (8) of the Employment and Labour Relations Court Act, 2011 any person who without reasonable cause fails to comply with an order duly given in respect of attendance to court, furnishing of such particulars as may be required, giving of evidence before the court or producing of any relevant documents, or who when required by an order to furnish information or to make any statement or to furnish any information, knowingly gives the information or makes a statement which is false or misleading in material particular, commits an offence, and upon conviction is liable to a fine not exceeding one million shillings or to imprisonment for a term not

exceeding two years or to both.

The High Court (Organization and Administration) Act which was passed in 2015 now expressly donates to the High Court the power to punish for the disobedience of its orders. It provides-

“36. (1) A person who –

- (a) assaults, threatens, intimidates or willfully insults a judge, judicial officer or a witness, involved in a case during a sitting or attendance in a court, or while the judge, judicial officer or witness is travelling to and from a court;**
- (b) willfully and without lawful excuse disobeys an order or directions of the court in the course of the hearing of a proceeding;**
- (c) within the premises in which any judicial proceeding is being heard or taken, or within the precincts of the same, shows disrespect, in speech or manner, to or with reference to such proceeding, or any person before whom such proceeding is being heard or taken;**
- (d) having been called upon to give evidence in a judicial proceeding, fails to attend, or having attended refuses to be sworn or to make an affirmation, or having been sworn or affirmed, refuses without lawful excuse to answer a question or to produce a document, or remains in the room in which such proceeding is being heard or taken after the witnesses have been ordered to leave such room;**
- (e) causes an obstruction or disturbance in the course of a judicial proceeding;**
- (f) while a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceeding or capable of prejudicing any person in favour of or against any parties to such proceeding, or calculated to lower the authority taken;**
- (g) publishes a report of the evidence taken in any judicial proceeding that has been directed to be held in private;**
- (h) attempts wrongfully to interfere with or influence a witness in a judicial proceeding, either before or after he or she has given evidence in connection with such evidence;**
- (i) dismisses a servant because he or she has given evidence on behalf of a party to a judicial proceeding; or**
- (j) commits any other act of intentional disrespect to any judicial proceedings, or to any person before whom such proceeding is heard or taken, commits an offence.**

(2)

(3) A person who commits an offence under subsection (1) shall, on conviction be liable to imprisonment for a term not exceeding five days, or to a fine not exceeding one hundred thousand shillings, or to both.

(4) In exercise of its powers under this section, the Court shall observe the principles of fair administration of justice set out in Article 47 of the Constitution.” (our emphasis)

Section 39 (2) (g) enjoins the Chief Justice to make Rules to provide for, among other things, the procedure relating to contempt of court. Purely as a matter of interest and comparison, section 35 of the Court of Appeal (Organization and Administration) Act, 2015, headed “Contempt of Court” stipulates that; -

“35. (1) Subject to the provisions of any other law, the Court shall have power to punish for contempt.

(2) A person who, in the face of the Court –

- (a) assaults, threatens, intimidates, or insults a judge of the Court, the Registrar of the Court, a Deputy Registrar or officer of the Court, or a witness, during a sitting or attendance in Court, or in going to or returning from the Court;**
 - (b) interrupts or obstructs the proceedings of the Court; or**
 - (c) without lawful excuse disobeys an order or direction of the Court in the course of the hearing of a proceeding, commits an offence.**
- (3) In the case of civil proceedings, the willful disobedience of any judgment, decree, direction, order, or other process of a court or willful breach of an undertaking given to a court constitutes contempt of court.**
- (4) In the case of criminal proceedings, the publication, whether by words, spoken or written, by signs, visible representation, or otherwise, of any matters or the doing of any other act which –**

(a) scandalizes or tends to scandalize, or lowers or tends to lower the judicial authority or dignity of the court;

(b) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

(c) interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice, constitutes contempt of court.

(5) A police officer, with or without the assistance of any other person, may, by order of a judge of the Court, take into custody and detain a person who commits an offence under subsection (2) until the rising of the Court.

(6) The Court may sentence a person who commits an offence under subsection (1) to imprisonment for a period not exceeding six months, or a fine not exceeding five hundred thousand shillings, or both.

(7) A person may appeal against an order of the Court made by way of punishment for contempt of court as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the Court.” (our emphasis)

We have gone to this great length to demonstrate how, before the passage of these legislations the powers of the High Court and this Court to punish for contempt of court were dynamic and kept shifting depending on the prevailing laws in England. Today each level of court has been expressly clothed with jurisdiction to punish for contempt of court. The only missing link is the absence of the rules to be followed in commencing and prosecuting contempt of court applications. In order to completely emancipate ourselves from English law on contempt of court, the Chief Justice, as required under the aforesaid legislations ought to make rules for commencing and prosecuting applications for contempt of court.”

What I understand the Court of Appeal to be saying is that we need not keep our ears to the ground on the trends of the law of contempt as practised in English courts. We have sufficient legislation of our own on this subject and the only missing link are the rules of procedure.

I would say that until such a time that we have our own locally made rules on procedure and prosecution of applications for contempt of court, we still have to rely on the latest rules applicable in England, of course with such modifications as are necessary and, at any rate, to the extent that they are applicable to our circumstances. It is worth bearing in mind that despite the introduction of various statutory provisions upon which contempt of court proceedings may be founded, Section 5 of the Judicature Act has neither been amended nor repealed and having been left intact, it would be a legitimate basis for the court to embrace not only the substantive law applicable in England in contempt of court applications but also the procedures that would be adopted in such applications. This is particularly so in circumstances where our local legislation may be found to be lacking in any particular respect; in my humble view, there would be nothing wrong in resorting to the English law to fill the gaps in such circumstances.

On the particular question of enforcement of judgments and orders, besides Rule 81. 4 of the Civil Procedure (Amendment No. 2) Rules, 2012 which the Court of Appeal made reference to in **Christine Wangari Gachege versus Elizabeth Wanjiru Evans & 11 Others (supra)** other Rules which I find relevant where judgments or orders have been violated are Rules 81.5, 81.6, 81.8, 81.9 and 81.10. It is necessary that reproduce this whole set of Rules verbatim for better understanding. They read as follows:

Rule 81.

Enforcement of judgment, order or undertaking to do or abstain from doing an act

81.4. — (1) If a person—

(a) required by a judgment or order to do an act does not do it within the time fixed by the judgment or order; or

(b) disobeys a judgment or order not to do an act,

then, subject to the Debtors Acts 1869(5) and 1878(6) and to the provisions of these Rules, the judgment or order may be enforced by an order for committal.

(2) If the time fixed by the judgment or order for doing an act has been varied by a subsequent order or agreement of the parties under rule 2.11, then references in paragraph (1)(a) to the time fixed are references to the time fixed by that subsequent order or agreement.

(3) If the person referred to in paragraph (1) is a company or other corporation, the committal order may be made against any director or other officer of that company or corporation.

(4) So far as applicable, and with the necessary modifications, this Section applies to undertakings given by a party as it applies to judgments or orders.

(Rules 81.17(3) and (4) make provision for cases in which both this Section and Section 6 (Committal for making a false statement of truth or disclosure statement) may be relevant.)

(5) If a judgment or order requires a person to deliver goods or pay their value—

(a) the judgment or order may not be enforced by a committal order under paragraph (1);

(b) the person entitled to enforce the judgment or order may apply to the court for an order requiring that the goods be delivered within a specified time; and

(c) where the court grants such an order, that order may be enforced under paragraph (1).

Requirement for service of a copy of the judgment or order and time for service

81.5. — (1) Unless the court dispenses with service under rule 81.8, a judgment or order may not be enforced under rule 81.4 unless a copy of it has been served on the person required to do or not do the act in question, and in the case of a judgment or order requiring a person to do an act—

(a) the copy has been served before the end of the time fixed for doing the act, together with a copy of any order fixing that time;

(b) where the time for doing the act has been varied by a subsequent order or agreement under rule 2.11, a copy of that subsequent order or agreement has also been served; and

(c) where the judgment or order was made under rule 81.4(5), or was made pursuant to an earlier judgment or order requiring the act to be done, a copy of the earlier judgment or order has also been served.

(2) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on the respondent before the end of the time fixed for doing the act.

(3) Copies of the judgment or order and any orders or agreements fixing or varying the time for doing an act must be served in accordance with rule 81.6 or 81.7, or in accordance with an order for alternative service made under rule 81.8(2)(b).

Method of service – copies of judgments or orders

81.6. Subject to rules 81.7 and 81.8, copies of judgments or orders and any orders or agreements fixing or varying the time for doing an act must be served personally.

Dispensation with personal service

81.8. — (1) In the case of a judgment or order requiring a person not to do an act, the court may dispense with service of a copy of the judgment or order in accordance with rules 81.5 to 81.7 if it is satisfied that the person has had notice of it—

(a) by being present when the judgment or order was given or made; or

(b) by being notified of its terms by telephone, email or otherwise.

(2) In the case of any judgment or order the court may—

(a) dispense with service under rules 81.5 to 81.7 if the court thinks it just to do so; or

(b) make an order in respect of service by an alternative method or at an alternative place.

Requirement for a penal notice on judgments and orders

81.9. — (1) Subject to paragraph (2), a judgment or order to do or not do an act may not be enforced under rule 81.4 unless there is prominently displayed, on the front of the copy of the judgment or order served in accordance with this Section, a warning to the person required to do or not do the act in question that disobedience to the order would be a contempt of court punishable by imprisonment, a fine or sequestration of assets.

(2) An undertaking to do or not do an act which is contained in a judgment or order may be enforced under rule 81.4 notwithstanding that the judgment or order does not contain the warning described in paragraph (1).

How to make the committal application

81.10.—(1) A committal application is made by an application notice under Part 23 in the proceedings in which the judgment or order was made or the undertaking was given.

(2) Where the committal application is made against a person who is not an existing party to the proceedings, it is made against that person by an application notice under Part 23.

(3) The application notice must—

(a) set out in full the grounds on which the committal application is made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; and

(b) be supported by one or more affidavits containing all the evidence relied upon.

(4) Subject to paragraph (5), the application notice and the evidence in support must be served personally on the respondent.

(5) The court may—

(a) dispense with service under paragraph (4) if it considers it just to do so; or

(b) make an order in respect of service by an alternative method or at an alternative place.

From the foregoing Rules, I would say that some of the salient features in an application for contempt of court are as follows:

1. Disobedience of a court order or judgment is a foundation for contempt of court proceedings against the contemnor.
2. Where the contemnor is a company or other corporation, the committal order may be made against any director or other officer of that company.
3. The judgment or order in question must be served on the person required to do or not to do the act in question unless the court expressly dispense with personal service.
4. Where the person required to do or not to do an act is a company or other corporation, a copy of the judgment or order must also be served on the alleged contemnor.
5. Judgments and orders must be served personally.
6. The court may, however, dispense with personal service if it is satisfied that the contemnor had notice of the judgment or order:
 - (a) By being present when the judgment or order was given or made; or
 - (b) By being notified of its terms by telephone, email or otherwise.
7. The court may also dispense with personal service if it thinks it is just to do so or may make an order in respect of service by an alternative method or an alternative place.
8. There shall be permanently displayed on the front copy of the judgment or order served a warning to the person required to do or not to do the act in question that disobedience to the order would be contempt of court punishable by imprisonment, a fine or sequestration of assets. Without this display the judgment or order may not be enforced unless it is an undertaking contained in a judgment or order.
9. The contempt of court application shall be made by an application notice in the same proceedings in which the judgment or order was made.
10. The application notice must set out in full the grounds on which the committal application is made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; and must also be supported by one or more affidavits containing all the evidence relied upon.
11. The application notice and the evidence in support must be served personally on the respondent although the court may dispense with service under paragraph (10) if it considers it just to do so; or may make an order in respect of service by an alternative method or at an alternative place.

Weighed against this threshold the applicant's motion falls short in several respects of which the three prominent ones are, first, the order or judgment was not served on the contemnor; secondly, even if it was served, the requisite warning that disobedience to the order or judgment would be contempt of court punishable by imprisonment, a fine or sequestration of assets was not displayed; thirdly, there is no evidence that the alleged contemnor was served with the application for contempt.

In the affidavit in support of the applicant's present motion, the applicant has sworn that she notified the contemnor of the order of mandamus vide her advocates' letter dated 17 June 2019 in which the order for mandamus was enclosed. The letter, a copy of which is exhibited to the applicant's affidavit shows that it was served not on the addressee, who is named in the letter as "County Executive Committee (CEC) Member of Finance" but that it was received at the "Office of County Attorney, Nairobi City County". Again, there is nothing to suggest that the order itself was received in the same manner that the letter was received.

As far as service of the motion is concerned, there is an affidavit of service sworn on 8 November 2019 by one David K. Kivindu, who has described himself as a licensed process server. The pertinent parts of the affidavit read as follows:

“2. THAT on 18th day of October 2019, at about 9:00 am, I received Notice of Motion dated 8th October 2019 and listed for hearing on 18 November 2019, with instructions to effect service of the same upon Nairobi City County Government at their offices located on the 12th floor of City Hall Annexe, City Hall way, P.O. BOX 30075-00100 Nairobi, opposite Supreme Court Building.

3. THAT on the same day I proceeded to the offices of the above mentioned 12th floor legal department and upon arrival around 11:12 am, I personally served a copy of the Notice of Motion upon their legal officer who accepted service by retaining a copy and acknowledging receipt on the front page of the original, which is returned herewith to this honourable court duly served upon the respondents.”

It is apparent from the applicant’s counsel’s letter of 17 June 2019 and the affidavit of service of 8 November 2019 that the alleged contemnor was not served with the order of mandamus and neither was he served with the application seeking to commit him for contempt of court. The order itself was not endorsed with the requisite notice of the consequences that are likely to follow if it was disobeyed.

One may be tempted to invoke article 159 (2) (d) of the Constitution and cry out aloud that in exercising judicial authority, courts ought to administer justice without undue regard to procedural technicalities. My answer to this argument would be that where liberty of an individual is threatened what one may regard as ‘a procedural technicality’ is as much important as the substantive law. The ‘procedural technicality’ cannot be ignored where one’s constitutional right to freedom is likely to be curtailed or is threatened.

Without belabouring the point, I would reiterate the words of the Court of Appeal in **Woburn Estate Limited v Margaret Bashforth**(supra) where it stated as follows:

“We reiterate that contempt proceedings being of quasi –criminal in nature and since a person may lose his right to liberty, each stage and step of the procedure must be scrupulously followed and observed. We bear in mind the often-cited passage attributed to Lord Denning In Re Bramblevale Ltd [1970] 1 CH 128 at page 137 that;

“A contempt of court is an offence of criminal character. A man may be sent to prison for it. It must be satisfactorily proved showing that when the man was asked about it, he told lies. There must be some further evidence to incriminate him.”

For the reasons I have given I find and hold the applicant’s motion dated 8 October 2019 to be incompetent; it is hereby struck out. I make no orders as to costs as the decretal sum is acknowledged as outstanding.

SIGNED, DATED AND DELIVERED ON 5TH MARCH 2021.

Ngaah Jairus

JUDGE