



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL SUIT NO. E058 OF 2019

CAROLINE MUTUKU.....PLAINTIFF

VERSUS

AMOS KONES MABELE.....1ST DEFENDANT

OASIS CARGO LOGISTICS LTD.....2ND DEFENDANT

CMA CGM KENYA LIMITED.....3RD DEFENDANT

RULING (2)

INTRODUCTION AND BACKGROUND

The Applicant filed Chamber Summons Application dated 13th May 2020. The Applicant's application was supported by the Affidavit of **Caroline Mutuku** sworn on 13th May 2020.

The Applicant filed a Chamber Summons Application dated 19th January 2021 for orders; -

- a. That the Court finds **Amos Kones Mabele** in contempt of the order of this Court, in **High Court Civil Case No. E058 of 2019** issued on the **20th December 2019**.
- b. That upon grant of prayer (a) above, the said Amos Kones Mabele be arrested and committed to prison for a term not exceeding six (6) months.
- c. That in the alternative to Order (b) above, the Court do impose the penalty of a fine of **Kshs.500,000** against the said Amos Kones Mabele.
- d. That the Court orders that the said Amos Kones Mabele not be heard by the court until they purge the contempt.
- e. That the Court preserves its orders issued on **20th December 2019**.
- f. That the Court issues such other or further punitive orders in respect of the said contempt as may be necessary for the ends of justice to be met.

The Application is supported by the Affidavit of **Caroline Mutuku** and based on grounds that; -

She was a joint business partner with 1st Respondent engaged in the business of importation of premium garlic which she solely financed the importation business through loan from Standard Chartered Bank.

Through a Notice of Motion dated 9th April 2019 she sought certain orders before the Court; the Application was heard and determined by the Court and the Court having found the Application merited on 20th December 2019 issued orders inter alia;

i. That the Court Orders made on **9th April 2019** was in the interest of justice to both parties and not one party hence to ensure funds are available during and after hearing the suit, the 1st Respondent's Accounts at Equity Bank be frozen until compliance with the Court Order of **9th April 2019** or further orders of this Court.

Orders issued were served upon the 1st Respondent's Advocates on the **6th February 2020** and the 1st Respondent's Advocates acknowledged receipt of the court order dated **20th December 2019**.

The 1st Respondent failed and/or neglected to deposit ½ of the sale proceeds of **Container Number OERU 4045698 BL COSO 6185825370** in an interest earning account in manifest disobedience of the Court's orders and in attempt to frustrate the intent of Court Order issued on **9th April 2019**.

A Court Order is not a mere suggestion or an opinion or a point of view. It is a directive that is issued after much thought and with circumspection. It must therefore be complied with and it is in the interest of every person that this remains the case. To see it any other way is to open the door to chaos and anarchy.

A person who, knowing of any injunction, willfully neglects and/or fails to do something, to break the injunction is liable to be committed for Contempt of Court as such person has by his conduct obstructed justice.

The Applicant stated that the law has changed and as it stands today knowledge supersedes personal service, where a party clearly acts and shows that he had knowledge of a Court Order, the strict requirement that personal service must be proved is rendered unnecessary.

Where an application for committal for Contempt of Court Orders is made the Court will treat the same with a lot of seriousness and urgency and more often will suspend any other proceedings until the matter is dealt with and if the contempt is proven, to punish the contemnor or demand that it is purged or both.

In contempt proceedings, it is not the dignity of the Court which is offended rather the fundamental supremacy of the law which is challenged. Therefore, the contemnor would have no right of audience in any court of law unless he is punished or purges the contempt.

1ST DEFENDANT/RESPONDENT'S REPLYING AFFIDAVIT

The Application is opposed vide an affidavit sworn on **8th June 2020** by **Amos Kones Mabele**.

1. He averred that the Application dated **13th May 2020** is incurably defective for having been filed without leave of the Court as required by Law.
2. The 1st Respondent stated that the Order dated **9th April 2019** did not specify the amount of money to be deposited. Further, that the Court Order issued on **4th July 2019** did not specify the amount of money to be deposited.
3. The 1st Respondent confirmed that pursuant to the court order issued on **4th July 2019**, Bank Account Number **046000029709** in the name of the Parties Advocate was opened at Family Bank Limited, Kilimani Branch into which Account he deposited the sum of **Kshs.300,000/-** being the proceeds of sale from the container that the 1st Respondent had received as at that date. Marked "**AKM3**" is a copy of the Bank account details confirming the deposit.
4. The 1st Respondent stated that as a consequence of the Court Order issued on **4th February 2020**, his bank accounts at Equity Bank had been frozen. As a result, he was unable to collect the proceeds of sale for the Garlic that was imported in Container number **OERU 4045698 BL COSO 6185825370**, and he did not manage to sell all of the Garlic imported in the container because most of it was damaged and destroyed due to prolonged storage as a result of lack of market.
5. The 1st Respondent stated that the Court orders dated **9th April 2019**, **4th July 2019** and **4th February 2020** did not specify the amount of money to be deposited, therefore he was/is not in breach of the Court Orders as he deposited half of the payments he had received as orders by the Court.

COURT PROCEEDINGS

The Applicant vide a Notice of Motion application dated 3rd April 2019, sought certain orders before this Court. The application was heard and determined on 9th April 2019, this Court issued an Order and directed as follows; -

1. **"That USD 5,000 be deposited with Deputy Registrar Commercial Division within the next 7 days by 16th April 2019 or bank guarantee of USD 5,000.**
2. **That the application of 8/4/2019 to serve the 3rd Defendant is granted and the 3rd Defendant complied with release of USD 5,000 which was released to the 1st Defendant**
3. **That proceeds of sale of the container Number OERU4045698 BL COSU6185825370 ½ of the said proceeds shall be deposited in an interest accruing account held by Advocates for the 1st Defendant and the Plaintiff by 30th May 2019 and the**

proof of the amount deposited presented to Court.”

Further, this Court issued an Order on **4th July 2019** as follows; -

- 1. “That the 1st and 2nd Defendants to comply with the Order to deposit ½ of the amount of the shipped sold product within 7 days and the Preliminary Objection to proceed on 9th July and confirm compliance.**
- 2. That the amount shall be deposited in a joint account held by the Advocates for the Defendants and the Plaintiff.”**

The final Order by this Court was issued on **4th February 2020** that; -

- 1. “The USD 5,000 was paid by the Plaintiff and she was to be refunded by the 1st and 3rd Defendant. The 1st Defendant did not dispute that the USD 5,000 was paid by the Plaintiff. It shall be released to the Plaintiff as per the Application.**
- 2. On 9th April 2019 orders granted that ½ of the sale proceeds of Container Number OERU4045698 BL COSU6185825370 be deposited by the 1st Defendant in an interest earning account held by the Advocates. This was not done.**
- 3. The Order was made in the interest of justice for both parties and not one party hence to ensure funds are available during and after the hearing of the suit, the 1st Defendants accounts at Equity Bank are frozen until compliance with the Order of 9th April 2019.**
- 4. That USD 5,000 deposited in Court be released to the Plaintiff forthwith to settle loan accounts.”**

APPLICANT’S SUBMISSIONS

Issue of Leave

The Applicant submits that leave is not required where contempt proceedings relate to judgment, order or undertaking as in the instant case. The Application herein was brought under **Section 5** of the Judicature Act.

Civil Procedure Amendment Rules of England 2012, Rule 81.4 OF cpa amendment Rules 2012 of England (breach of Judgment, order or undertaking) now referred to as “Application Notice” (as opposed to a Notice of Motion) is the relevant one for the Application before Court. It is made in the proceedings in which the judgment or order was made or the undertaking given. 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.

The application notice and the affidavit(s) 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 of place of service. **Shimmers Plaza Ltd vs National Bank of Kenya [2015]eKLR**, where the court stated as follows;

“Before we conclude, we would like to state that contrary to the averment by the respondent herein that the application is bad in law for lack of leave to institute contempt of court proceedings, under the new Civil Procedure Rules of England (2012) which as stated earlier still apply in respect of contempt of court proceedings in this country, leave of the court before institution of an application such as this is no longer necessary. 9see also this Court’s Ruling in Christine Wnagari Gachege vs Elizabeth Wanjiru Evans & 11 others.

a. Effect of None Compliance with Two Court Orders.

The Applicant submitted that it was the blatant disregard of the two Court orders that necessitated the filing of this application seeking to find the 1st Defendant in contempt of court. The Applicant filed an application dated 13th May 2020 asking that this Court to find the 1st Defendant in contempt of the order of this Court issued on 20th December 2019, in **Civil Case No. E058 of 2019.**

The Applicant thus sought to move this court to commit the 1st Defendant to civil jail for a term not exceeding six (6) months or in the alternative, this Court imposes the penalty of a fine of **Kshs.500,000** against the 1st Defendant and this court preserves its orders issued on **20th December 2019.**

In addressing the issue of disobeying court orders, the Applicant submitted that it cannot be gainsaid that court orders are never issued in vain and the same must be heeded in order to uphold the rule of law. The Applicant relied on the case of **Shimmers Plaza Limited vs National Bank of Kenya Limited [2015]eKLR**, where the Court of Appeal had this to say;

“we reiterate here that court orders must be obeyed. Parties against whom such orders are made cannot be allowed to trash them with impunity. Obedience of court orders is not optional. Rather, it is mandatory and a person does not choose whether to obey a court order or not.....

The Courts should not fold their hands in helplessness and watch as their orders are disobeyed with impunity left, right

and centre. This would amount to abdication of our sacrosanct duty bestowed on us by the constitution. The dignity them must be punished, lest they lead us all to a state of anarchy. We think we have said enough to send this important message across.”

The Applicant in answering the question why this Court should punish for contempt of Court, relied on the case of Kenya Human rights Commission vs Attorney General & Another [2018] eKLR, Justice Mwita quoted the case of Canadian Metal Co. Ltd vs Canadian Broadcasting Corp (No.2) [1075] 48 D. LR (30) as having stated;

“To allow court orders to be disobeyed would be to tread the road toward anarchy. If orders of the court can be treated with disrespect, the whole administration of justice is brought into scorn.... If the remedies that the courts grant to correct.... Wrongs can be ignored, then there will be nothing left for each person but to take the law into his own hands. Loss of respect for the courts will quickly result into the destruction of our society....Courts therefore punish for contempt to insulate its process for purposes of compliance so that the rule of law and administration of justice are not undermined. Without this power or where it is limited or diminished, the court is left helpless and its decisions would mean nothing. This ultimately erodes public confidence in the courts; endangers the rule of law, administration of justice and more importantly, development of society. That is why the court stated in Carey vs Laiken [2015] SCC 17 that: ‘contempt of court rests on the power of the court to uphold its dignity and process. The rule of law is directly dependent on the ability of the courts to enforce their process and maintain their dignity and respect.’”

b. Whether the threshold to invoke contempt proceeding has been met.

The Applicant submitting on whether the threshold to invoke contempt proceedings has been met averred that service was effected by the Plaintiff’s Advocates upon the 1st Defendant’s Advocates on **6th February 2020** and a copy of receipt of service annexed to the Applicant’s affidavit. The Halsbury’s Laws of England (Fourth Edition) Volume 9 at page 37 provides in this regard that:

“As a general rule, no order of court requiring a person to do or abstain from doing an act may be enforced unless a copy of the order has been served personally on the person required to do or abstain from doing the act in question.”

see also Teachers Service Commission vs Kenya National Union of Teachers & 20 others (2015)eKLR.

The Applicant submitted that Kenyan courts have ruled that the strict requirement of proof of personal service of court orders does not grant a party carte blanche freedom to disobey court orders. It was the Applicants submission that had the 1st Defendant been disgruntled with the said orders of this Court, he had the opportunity to apply for review of the said orders. He instead sought to frustrate the Applicant by avoiding to appear in the court to confirm compliance with said orders.

1ST RESPONDENT/DEFENDANT’S SUBMISSIONS

The 1st Defendant submitted that he withdraws the averment in paragraph 3 of his Replying Affidavit sworn on **8th June 2020** and concedes that there is now no requirement for leave prior to filing an Application for Contempt of Court.

The Court order given on **20th December 2019** which was duly issued on **4th February 2020** does not contain a Penal Notice as required by Law and the 1st Defendant cannot therefore be punished for contempt of the Order. The requirement that a Court Order must have a Penal Notice in order to attract punishment for disobedience is now settled in law. In Judicial Review No.276 of 2015 Republic Vs Principal Secretary Ministry of Defence Ex Parte George Kariuki Waithaka, Nyamweya J. held as follows; -

“This court notes that Kenyan courts have also held that personal service of orders and a penal notice is a requirement in contempt proceedings, and reference is made to the Court of Appeal decision in Nyamogo & Another V Kenya Posts and Telecommunications Corporation, (1994) KLR 1, and Ochino & Another V Okombo & 4 Others KLR 165 in this respect.”

Although Courts have slowly moved away from the requirement of Personal Service and held that knowledge of the Order is sufficient, the requirement for a Penal Notice to be contained in the Order has not been done away with.

It is therefore the 1st Defendant’s submission that service of the Court Order without an attached Penal Notice disallows the Court from punishing the 1st Defendant for contempt of the said Order and on that ground alone the Application should fail.

Further, that he is not in contempt of the Court Order given on **20th December 2020** or the previous Court Order of **4th July 2019** as the Court Orders do not expressly provide the amounts of money to be deposited by the 1st Defendant. The Court Order issued on **4th July 2019** required the 1st Defendant to “deposit half the amount of the shipped, sold product within 7 days” but did not specify the amount. The 1st Defendant proceeded to deposit the sum of **Kshs.300,000/-** held in the name of the parties Advocates.

The Court ought to have been clear and unambiguous on the exact amount of money to be deposited if it is to draw penal consequences. A Court Order must speak for itself. The moment the parties to the suit have to rely on averments in Affidavits as to what amount of money ought to be deposited, then the Court Order is rendered ambiguous and in such circumstances punishment for contempt should not be allowed.

In HCCC No. 300 of 2015 Vimalkumar Bhimji Depar Shah & Another vs Stephen Jennings & Others [2018] eKLR Aburili J. held; -

“In the instant case, the orders allegedly breached or violated are the injunctive orders which the Applicant’s Application states were issued on 31st August 2015. It is now trite law that where committal for breach of an injunction is sought, the applicant must clearly specify that which the respondent is alleged to have done or not done and what was the breach of the terms of the injunction. Thus, the application must state precisely what the alleged contemnor has done or omitted to do which constitutes a violation of the injunctive order. Any slight ambiguity in the order will lead to watering down the standard of proof, which is a criminal standard not being achieved. The order allegedly disobeyed must be in existence it must be clear in its terms, it must have been served upon the respondent or the respondent must have actual or constructive knowledge of the order together with an endorsed penal notice warning of the consequences of disobedience.”

The 1st Defendant submits that the lack of clarity on the Order dated 20th December 2020 and 4th July 2019 make the said orders ambiguous with the result that the required standard of proof cannot be attained.

DETERMINATION

Issues for determination:

- 1. Whether the threshold to invoke contempt proceeding has been met?**
- 2. Whether the application for contempt is defective for lack of a Penal Notice?**

The Applicant submits that the 1st Defendant is yet to deposit or even attempt to make partial payments of ½ of the sale proceeds of the Business in accordance with the Court’s order of 9th April 2019 and subsequently 20th December 2019.

The 1st Defendant submitted that the Court Order issued on 4th February 2020 did not contain a penal notice as required by law and the 1st Defendant cannot therefore be punished for contempt of the Order. Further, that the Court Orders issued on 9th April 2019 and 4th July 2019 did not specify the amount of money to be deposited. As regards the Court Order issued on 4th February 2020, the 1st Defendant submits that his bank accounts at Equity Bank have been frozen.

On the issue of leave, the Applicant submitted that leave is not required where contempt proceedings relate to judgment, order or undertaking as in the instant case. It is important to note that the 1st Respondent withdraws the averment in Paragraph 3 of his Replying affidavit sworn on 8th June 2020 and conceded, in the submissions, that there is now no requirement for leave prior to filing of an application for contempt of court.

The Court notes that leave is not required where contempt proceedings relate to Court orders. This was settled in *Civil Appeal No. 24 of 2014 Justus Kariuki Mate & another v Martin Nyaga Wambora & another [2014] eKLR Visram, Koome & Odek, J.J.A.* stated as follows:

“The trial court was correct in holding that the law as then was in contempt of court had since changed; the law as it stands today is that knowledge of an order is sufficient for purposes of contempt proceedings.....Firstly, there was no time to seek leave, secondly personal service was attempted and the orders were served in the offices of the Embu County Assembly and the adverts in daily newspapers was meant to notify everybody including the appellants. We also find the argument that using the advert in the circumstances of this case without first obtaining the leave of the court was a nullity is a mere technicality.”

Whether the threshold to invoke contempt proceeding has been met.

The applicable law as regards contempt of court existing before the enactment of the Contempt of Court Act was restated by the Court of Appeal in *Christine Wangari Gachege vs. Elizabeth Wanjiru Evans & 11 Others, [2014] eKLR*. In that case the Court found that the English law on committal for contempt of court under **Rule 81.4 of the English Civil Procedure Rules**, which deals with breach of judgment, order or undertakings, was applied by virtue of **section 5(1)** of the Judicature Act which provided that:

“(5)(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 that power shall extend to upholding the authority and dignity of Subordinate Courts.”

Section 63 (c) of the Civil Procedure Act provides; -

“A disobedience of an order of a temporary injunction will attract punishment in the form of imprisonment or attachment and sale of the contemnor’s property.”

What is contempt of court? According to the Black’s Law Dictionary;

“Contempt is a disregard of, disobedience to, the rules or orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behavior or insolvent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body”

While addressing the issue of contempt of court the Supreme Court in Petition No. 32 of 2014 Justus Kariuki Mate & another v Martin Nyaga Wambora & another [2017]eKLR stated; -

“Be it restated that the Court’s word is the people’s solemn edict calling for obedience; but it is precisely the sanctity of that word, that dictates utmost care, focus and assiduity, in the Judge’s undertaking. The context is set out in the Judgment of Romer LJ in Hadkinson v. Hadkinson [1952] 2 All ER 567:

“It is the 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.”

Whether the application for contempt is defective for lack of a Penal Notice.

The 1st Respondent submitted that service of the Court Order without an attached penal notice disallows the Court from punishing the 1st Respondent for contempt of the said orders. In this regard, the Court notes that the requirement of attachment of the penal notice has slowly been done away with as was held in Civil Appeal No. 33 of 2012 Shimmers Plaza Limited vs National Bank of Kenya Limited [2015] eKLR (Karanja, Mwera & Mwilu, JJA)

“On the other hand however, this Court has slowly and gradually moved from the position that service of the order along with the penal notice must be personally served on a person before contempt can be proved. This is in line with the dispensations covered under 81.8 (1) (supra).”

In Civil Case No. 111 of 2016 Cecil Miller vs Jackson Njeru & Another [2017] eKLR LJ Njuguna listed the elements of civil contempt as follows; -

“The element of a Civil Contempt as espoused in a book titled “Contempt in Modern New Zealand, were set out as follows:

- a. The terms of the order (or injunction or undertaking were clear and unambiguous and were binding on the defendant.**
- b. The defendant had knowledge of or proper notice of the terms of the order.**
- c. The defendant has acted in breach of the terms of the order and.**
- d. The defendant conduct was deliberate.**

These four elements must be proved to make a case for Civil Contempt. Although the proceedings are civil in nature, it is well established that the degree of proof is almost that beyond reasonable doubt but definitely higher than on balance of probability.”

The above mentioned four elements that must be proved to make a case for civil contempt, the Court finds that the terms of the order were clear, the 1st Respondent had knowledge of the order, he subsequently acted in breach of the terms of the order by failing to deposit ½ of the proceeds of the sale and his conduct was deliberate.

It is the Applicant’s duty to discharge the burden of proof in these proceedings by demonstrating that the Respondents disobeyed the orders of this court. It is my view that the Applicant has discharged the burden of proof. The Respondents, on the other hand, have failed to demonstrate why they have not complied with the said the orders.

The Court orders of 20th December partly read as follows;

- 1. On 9th April 2019 the Court granted orders that ½ of the sale proceeds of Container Number OERU 4045698 BL COSO 6185825370 be deposited by the 1st Defendant in an interest earning account held by the Advocates pending hearing and determination of the matter. It was not done.**

The Court observed in the same Ruling of 20th December 2019, that;

The matter was mentioned on 28th May 2019 and Ksh 1,158,120 was not deposited or any part thereof. On 16th July 2019, the 1st Defendant deposited Ksh 300,000/= and raised Preliminary Objection to filing and hearing of the suit that is pending.

The Court considered the Respondent’s explanation for non -compliance of Court order of 9th April 2019 as follows;

“That out of 2700 boxes, 10 boxes were rejected due to sprouting, breakages and peeling off. The rest of the 2690 boxes were sold at Ksh 1,747 per box against a total cost per box of Kshs 2,023 which has led to total loss of Ksh 745,534.00. The

cost was inflated hugely by the legal fees, borrowing cost as well as cold storage.

He states that if he collected the total sales would be Ksh 4,600,000/- out of which he paid off some lenders who lent him money to be able to import the 9th container as follows; Pauline Wambui ksh 920,000, David Wangui Ksh 390,000, Samuel Kirori Ksh 85,000 and Loice Kagunda Ksh 23,000 and business expenses of Ksh 775,700 and personal drawing of Ksh 200,000/- made up as follows:- their daughter's school fees Ksh 175,000, and Ksh 125,000 for his personal use leaving a balance of Ksh 2,323,220/- out of which he had Kshs 1,158,120/- ready available and Ksh 1,165,100 not collected."

The Defendant did not contest the Plaintiff's injection of capital to the purchase shipping importation of garlic in Kenya from China in several consignments culminating to the last one that parties differed on their

joint venture.

The plaintiff annexed bank statements that depicted deposit of funds. The Defendant did not tender any proof/evidence of any of the allegations made above with regard to the sale proceeds. The Defendant admitted that after various alleged payments he had **Kshs 1,158,120/- whose ½ would then be Ksh 600,000/- or so. The defendant deposited Ksh 300,000/- and the balance of Ksh 300,000/- is due and owing to the Plaintiff. The issue of non- clarity is not borne out by evidence on record. There is no ambiguity in figure required going by the Defendant's own explanation. The court did not attribute a fixed figure due to the Defendant's explanation of as to how much of garlic was sold, destroyed, not paid for, debts the Defendant incurred etc. the court relied on ½ the amount of proceeds received after the various deductions and expenses. If clarification was needed the 1st Defendant should here have sought the same from court.**

The Court has observed that the 1st Defendant has refused and/or neglected to comply with the Orders issued requiring him to deposit ½ of the sale proceeds.

The 1st Respondent stated that as a consequence of the Court Order issued on **4th February 2020**, his bank accounts at Equity Bank had been frozen.

If that be true as no document was produced to confirm compliance with Court order to freeze unnamed un numbered Account of the Defendant. If that be so, then the unfreezing of the account ought to be effected upon release of Ksh 300,000/- 1st to the Plaintiff or deposited with the Deputy Registrar Commercial & Tax for onward transmission to the Plaintiff.

The Court order of 9th April 2019 remains a valid legal and regular of the Court as it has not been reviewed s, set aside, varied or successfully appeal against. The 1st Defendant provided no evidence to controvert the Plaintiff's claim of investment of the business nor did the Defendant seek review of the court orders. The contempt of court shall be purged before implementation.

DISPOSITION

- 1. The Defendant failed to comply with Court orders /Ruling of 20th December 2019 to deposit ½ the proceeds of sale of garlic in an interest earning account by advocates and is therefore in contempt of Court orders.**
- 2. The Defendant deposited Ksh 300,000/- in the name of his advocate not in a joint interest earning account by advocates of parties. Be that as it may the Ksh 300,000/- shall be released to the Plaintiff to offset part of the 1/2 proceeds of garlic sale joint venture.**
- 3. The Defendant shall pay to the Plaintiff a further Ksh 300,000/- to amount to Ksh 600,000/- ½ of Kshs 1,158,120/- within 90 days from date of Ruling. The Defendant admitted this amount as sale proceeds and after settlement of his personal obligations.**
- 4. In default of payment of Ksh 600,000/- to the Plaintiff by 90 days to purge contempt of Court orders of 20th December 2019 the contempt of Court orders shall take effect in terms of the Plaintiff's application which is hereby granted after 90 days.**

DELIVERED DATED & SIGNED IN OPEN COURT ON 13TH APRIL 2021.(VIDEO CONFERENCE)

M.W. MUIGAI

JUDGE

IN THE PRESENCE OF:

MS JEO ADVOCATES FOR THE PLAINTIFF

MS WESONGA WAMALWA & KARIUKI ADVOCATES FOR 1ST DEFENDANT

COURT ASSISTANT- TUPET