



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

ELC NO 64 OF 2014

VERONICAH KIMOI KIMITEI.....PLAINTIFF

VERSUS

BARNARD K KEMBOI.....DEFENDANT

RULING

(Application for contempt; defendant jailed for 6 months for disobedience of order of injunction).

1. The application before me is brought under order 40 Rule 3 of the Civil Procedure Rules. It seeks to have the defendant/respondent punished for disobeying an order of injunction. The application is opposed.
2. It is not in contention that this court (Waithaka L. J) did issue an order of injunction on 8th April 2014. In his replying affidavit, the respondent has deposed that he has been in possession of the land since 1997 and therefore the terms of the order are not clear. He has actually admitted in his affidavit that he is using the land and has ploughed it. In essence the respondent is actually admitting to disobeying the court order.
3. It cannot be overemphasized that court orders must be obeyed. If anyone needs an explanation or is aggrieved by an order, the remedy is not to disobey the order. I on my part will not condone lawlessness or any blatant disregard of court orders.
4. Order 40 Rule 3 does give the court authority to punish for disobedience. Such person may be detained in prison for upto 6 months .
5. It has been said that the defendant is a first offender. That is so but he has not shown nor demonstrated any remorse, nor has he showed willingness to further comply with the order herein. I have no sympathy for him and order his detention for 6 months unless he purges his contempt.
6. The defendant/respondent is present in court and I order that we be escorted to the cells to start his term as ordered.

Dated, signed and delivered in open court at Nakuru this 14th day of May 2015.

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU

In presence of: -

Mr Kipkenei present for plaintiff/applicant

Ms Apolot holding brief for Mr Simiyu for defendant/respondent

CA: Janet

MUNYAO SILA

JUDGE

ENVIRONMENT & LAND COURT

AT NAKURU