



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**LAND AND ENVIRONMENT CASE NO. 65 OF 2012**

**EX MURITHI NAATHAN.....APPLICANT**

**VERSUS**

**DISTRICT LAND REGISTRAR.....1ST RESPONDENT**

**DISTRICT SURVEYOR.....2ND RESPONDENT**

**RULING**

This application is dated 24.9.2015 and seeks orders:

1. ***THAT this honourable court be pleased to certify this application to be of utmost urgency and service on the respondents be dispensed with in the first instance.***
2. ***THAT this honourable court do and hereby commit the District Land Registrar, the 1st respondent and the District Surveyor, the 2nd Respondent to prison for a period maximum (sic) of six (6) Months for deliberately refusing and/or to continue to disobey, flout or circumvent this courts order issued on 8th October, 2013.***
3. ***THAT pending interpartes hearing of this application, officer commanding station Meru police station or such officer as may be designated in the Kenya Police or Kenya Police Administration be directed to ensure the respondents hereof are in compliance with the order issued by honourable Justice Njoroge.***
4. ***THAT this honourable court be pleased to order the respondents to pay the defendant/applicant special damages for loss of use of the said parcel until the date of compliance of the order.***
5. ***THAT the cost of this application be awarded to the defendant***
6. ***THAT further or other orders be made as the court shall deem fit.***

The application has the following grounds:

- a) ***This 8th October, 2013, honourable Justice Njoroge, the High Court Judge, Environment and land Court, issued an elaborate and concise order THAT the District Land Registrar, the District Surveyor or both parties (sic) and their counsel do revisit the land parcels NTIMA/IGOKI/3568 and NTIMA/IGOKI/3301 and fix proper boundaries and beacons in accordance with the registries and titles.***
- b) ***In granting the aforesaid order and due to the nature of the issue raised in the suit, the honourable Justice Njoroge, was very categorical that the orders were to be effective pending the hearing and determination of this suit.***
- c) ***In the blatant disobedience of the court orders afore said, the respondents have continued to not honour the order and held parties to ransom with the determination of the suit pegged on their visit.***

**d) The conduct of the respondents if left unchecked shall embolden the parties herein and other subject of the honourable court to defy and disregard its orders.**

**e) The course of justice in these proceedings has been subverted and prejudiced by the conduct of the 1st and 2nd respondents.**

**f) A party in contempt of court cannot be heard until he/she has purged her contempt.**

**g) The conduct of the respondents aforesaid not only deprives the defendant/applicant right to enjoy private property but also expose the court to ridicule.**

**h) It is in the interest of administration of justice that officer commanding police station, Meru Police Station be directed to enforce the said orders so as to ensure that the dignity of the honourable court is upheld.**

The parties presented a consent dated 5.10.2015 which they asked the court to adopt as an order of the Court. The Consent was in the following terms:

***“By consent we agree to attend the demarcation to mark boundaries of suit lands in company of the District Land Registrar, the District Surveyor and Counsels for both parties (Defendant and Plaintiff) on the 9th of October, 2015.”***

The consent has been duly signed by all the advocates representing the parties. The consent has been adopted as an order of this Court. Parties are to come back to Court on 5.11.2015 to confirm compliance with the Consent Order.

I award no costs.

**Delivered in Open Court at Meru this 5th day of October, 2015 in the presence of:**

Cc: Lilian/Daniel

Kiongo for 1st and 2nd Defendant

Kamwaro – District Land Registrar

Ondari for Plaintiff

Mutuma for Defendant

**P. M. NJOROGE**

**JUDGE**