



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL MISC. APPLICATION NO. 238 OF 2015

LEAH WANGECHI GIOCHE APPLICANT

VERSUS

BESTLADY COSMETICS SHOP LTD.....1ST RESPONDENT

DANIEL MUNYAKA.....2ND RESPONDENT

DAVID KIRIMI

T/A KINYANJUI KIRIMI & CO. ADVOCATES.....3RD RESPONDENT

RULING

1. This ruling is the outcome of the motion dated 5th June 2015 in which Leah Wangechi Gioche, the Applicant herein is praying for inter alia leave to commence contempt of court proceedings against the Director of Bestlady Cosmetics shop Ltd, Daniel Munyaka, the manager of L.R. no. 209/785/30 Ronald Ngala Street (Bestlady Centre) and David Kirimi Advocate. The motion is supported by the affidavit of Leah Wangechi Gioche sworn on 2nd June 2015.
2. I have considered the grounds set out on the face of the motion and the facts deponed in the supporting affidavit of the Applicant. The motion is ex parte in nature. In such applications the court is not required to go in detail to establish the allegation that there was a break of a court order. At this stage the Applicant is required to establish the following ingredients. First, that a court order was issued and served upon the Respondent alleged contemnor(s).

Secondly, the applicant should make an averment that the order was breached.

Thirdly, that there must be prima facie evidence that indeed, there is need to grant the order of leave.

3. The applicant will be regarded as having shown a prima facie case if he or she establishes the first twin requirements.
4. In the case before this court, the applicant has averred that the Business Premises Rent Tribunal, vide **BPRT no. 554 of 2014** issued an order on 21.10.2014 in which it inter alia allowed the applicant to continue enjoying quiet and peaceful occupation of **shop no. 4** within the premises standing on **L.R. no. 209/785/30 Ronald Ngala Street** pending the hearing of the reference filed before the Business Rent Premises Tribunal. It is alleged that the order was made in the presence of the respondents herein. It is also alleged that the order was actually extracted and further served upon the respondents.

5. The applicant further stated that the respondents disobeyed the Order. It is alleged that on 6th November 2014 the 1st and 2nd respondents obtained a breaking in order against the applicants premises vide **Nairobi C.M.C. Misc application no. 1065 of 2014**. It is further alleged that the 1st respondent through the 2nd respondent had the applicant eventually evicted from the aforesaid premises despite having knowledge of the Tribunal's order.
6. After a careful consideration of the applicant's averments, I am convinced that the applicant has shown she has a prima facie case hence she is entitled to the orders sought.

In the end I grant the applicant leave of 14 days to commence contempt of court proceedings as sought for in prayer 2 of the motion. Costs of the motion shall abide the outcome of the contempt application.

Dated Signed and delivered in open court this 4th day of November, 2015.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiff

.....for the Defendant