



REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT
AT KITALE

ELC PETITION NO. 7 OF 2019

DAVID KIBIWOTT ACHIKWA.....PETITIONER

VERSUS

AGRICULTURAL DEVELOPMENT CORPORATION...1ST RESPONDENT

HON. ATTORNEY GENERAL.....2ND RESPONDENT

CHIEF LAND REGISTRAR.....3RD RESPONDENT

RULING

1. This ruling is with regard to an application by way of Notice of Motion dated 3/6/2020 brought under **Section 29** of the **Environment and Land Court Act, 2011**, **Sections 2** and **5** of the **Judicature Act Cap 8, Part 81** of the **English Civil Procedure Rules, 1998** and the inherent powers of the Court. I will set out the main prayers that the interested parties seek verbatim herein below:

(1) ...spent

(2) That **Dr. Maurice Cherogony** be found to be in contempt of court for disobeying the consent that was adopted as judgment and orders of the court by this court on 20/11/2019.

(3) That upon being found to be contempt of court, **Dr. Maurice Cherogony** be detained at Kitale GK Prison for a period of two (2) years and be ordered to pay a fine of Kshs.20,000,000/= as provided for by Section 29 of the Environment and Land Court Act, 2011.

(4) That a declaration be and is hereby issued that by disobeying the orders of 20/11/2019, **Dr. Maurice Cherogony** has violated Article 10 of the Constitution is unfit to hold public office.

(5) That costs of this application be provided for.

2. The application is premised on the grounds set out in the notice of motion and is supported by a sworn affidavit of the petitioner dated 3/6/2020.

3. The tenor of the motion is that the 1st respondent's Regional Manager, one **Dr. Maurice Cherogony** has despite having knowledge of the consent order of 20/11/2019 which **Clause 3** prohibited the respondents from interfering with the petitioner's right to access, use and otherwise deal with the suit property known as Land Reference **No. 7033/1, I.R. No. 207248**, has let the 1st respondent through its agents trespass and violate the terms of the consent order and blatantly failed to comply with the said orders. The petitioner thus urge the court to allow the motion which seeks the committal of the 1st Respondent for proceeding with the willful destruction of trees in the property even after being advised and cautioned against taking such contemptuous actions which have demeaned the authority and dignity of the court.

4. I have perused the court record and I do not seem to find any response filed by the respondents.

5. As per the directions of this court of 4/6/2020, the application before court was to be disposed of by way of written submissions. Neither of the parties filed submissions.

6. For the reason that the applicants have failed to comply with the lawful orders of this court that they file submissions, and there being no

other manner of disposal of the application provided for by this court, the application dated 3/6/2020 is hereby dismissed for want of prosecution.

Dated, signed and delivered at Kitale via electronic mail on this 22nd day of September, 2020.

MWANGI NJORGE

JUDGE,

ELC,

KITALE.