



**COPY**

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**MISC. APPLICATION NO. 200 OF 2012**

**AL-TAJ AUDIN ALIBHAI ..... APPLICANT**

**- V E R S U S -**

**JIWANI IMPEX LIMITED ..... RESPONDENT**

**RULING**

[1] There are two applications that were argued together. One is dated 29th November, 2013. This application prays for the respondent to be committed to civil jail for 12 months for disobeying the court order dated 6th December, 2012. The other application is dated 31st May, 2013 and it prays for the ruling and order made on 23rd day of November, 2012 to be set aside and that the respondent be ordered to remove any movables left in the suit premises.

[2] Mr. Kioko Kiume was for the applicant in the first application while Ms. Abuodha was for the respondent in the application dated 3rd May, 2013. It was vice versa. The applications were argued before me on 13th February, 2014 together.

[3] Having carefully perused the record and having listened to the arguments of Counsel and respondent, I find the following;

- a) That there were no orders issued by the court on 6th of December, 2012.
- b) That the respondent is a limited liability company which is incapable of being sent to jail as prayed.
- c) I am not convinced by the reasons given to support the 2nd application that I should set aside the orders of the court made on 23rd November, 2012.
- d) The order to remove any movables from the suit premises cannot therefore be granted.
- e) The two applications are dismissed with no order as to costs.

**Dated and delivered in open court at Mombasa this 3rd day of July, 2014.**

**S. MUKUNYA**

**JUDGE**

**3.7.2014**

In the presence of:

Mr. Sitonik advocate for Mr. Kioko Kiume advocate

Miss. Oluoch advocate for Ms. Abuodha advocate