



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CIVIL CASE NO. 1012 OF 1996  
COMMISSIONER OF CUSTOMS &**

**EXCISE.....RESPONDENT  
VERSUS  
AL RABIHAH MOTORS LIMITED.....APPELLANT**

**R U L I N G**

This is an application by way of Chamber Summons under section 5 of the Judicature Act seeking the Committal of the Commissioner of Customs and Excise for his refusal to obey the order of this court. On 22nd September, 1997 Mbitio J. made an order that the Commissioner of Customs and Excise do release motor vehicles belonging to Al Rabihah Motors Limited, held by the former, within 14 days on payment of duty of 5%. In default the applicant was given leave to apply for the committal of the Commissioner of Customs and Excise.

There is evidence that the order was served. This is also manifested by the fact that the respondent has filed a reply to this application. The respondent has not todate complied with the order given by Mbitio J. The application for committal is therefore properly before court.

The respondent's reply to this application has raised some matters of law related to the customs and Excise Act, Cap 472 Laws of Kenya. However I note that the respondent did not appeal or question the order prior to the filing of the application for contempt.

The authority of court is upheld by obeying its order. However ambiguous the order may be, however equivocal it may appear, that order has first to be obeyed and if need be questioned later. In the instant case the respondent decided to ignore it completely.

I find that the respondent is in contempt of the court order and the law must follow its course. I note that the order was conditional in that the applicant was to pay duty. The respondent was however to facilitate the payment thereof. I shall suspend the order of punishment for 14 days within which time the respondent may if he so wishes comply with order. This matter shall return to court on 6th February for further orders. Orders accordingly.

**Dated and delivered at Nairobi this 23rd day of January, 1998.**

**A. MBOGHOLI MSAGHA**

**JUDGE**