



**Matoke v Kenya Commercial Bank Ltd & 2 others (Environment & Land
Case 127 of 2017) [2025] KEELC 4555 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 4555 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT & LAND CASE 127 OF 2017**

**CK NZILI, J
JUNE 16, 2025**

BETWEEN

JEREMIAH MATOKE PLAINTIFF

AND

KENYA COMMERCIAL BANK LTD 1ST RESPONDENT

WILLIAM WILHITE ANYENDA 2ND RESPONDENT

**THE CHIEF LAND REGISTRAR NAIROBI LAND REGISTRY 3RD
RESPONDENT**

RULING

1. Before me is an application dated 17/4/2024. It seeks orders that summons do issue to the Chief Land Registrar, Nairobi Lands Registry, to appear before the court and be cited for contempt of court for it has failed to implement the court's amended judgment/decreed issued on 24/6/2019, and the subsequent orders issued on 28/5/2020 and 30/7/2020, by registering the transfer and issuance of a title deed LR No. 7847/7 to the applicant. The application is supported by the grounds on its face and in an affidavit of Jeremiah Matoke sworn on 17/4/2024.
2. The applicant, in his affidavit has attached copies the amended decree and the amended follow-up orders as annexures JNMN-1(a), (b), and (c), which he says were booked and submitted together with the necessary documents, duly signed by the Deputy Registrar of this court at the Lands Registry, vide Booking Form No. 50-53 of 1/3/2022. The applicant deposes that his advocates on record have made follow-ups through Mr. Mburu, a Land Registrar at the said Lands Registry, who had endorsed that the partial discharge had not been attached despite the court orders dated 28/5/2020, but in spite of taking the documents and promising to act on them, he has not completed the registration or issued the title deed. The Booking Form is attached as annexure JNM-2.



3. The applicant deposes that he has also been to the said office where he met Mr. Mburu and also made follow-ups through telephone calls, whose promises have not materialized. The applicant expresses frustrations that have prompted him to report to the Ombudsman for intervention as per annexed letters marked JNM-3. The applicant deposes that it is apparent that the Chief Land Registrar has no intention to obey the court order and its office seems to have conspired to frustrate him, hence the application for contempt of court.
4. The application was served upon the Hon. Attorney General on 15/5/2024 and on 29/5/2024, upon both the Hon. Attorney and the Chief Land Registrar going by an affidavit of service sworn by Geoffrey Anami on 3/6/2025. When the matter came up on 8/5/2024 and 3/7/2034, Mr. Odongo and Ms. Jepkemoi learned state counsels appeared for the citee.
5. The applicant relies on written submissions dated 6/2/2025. Reliance is placed *TSC -vs- KNUT & Others* [2013] eKLR and *Kenya Tea Growers Association -vs- Francis Atwoli & Others* [2013] eKLR. Though the citee's advocates told the court that the registration of the title had been effected, no affidavit or reply has been availed attaching the letter or an affidavit and an official search certificate to show when the registration was effected.
6. Contempt of court refers to a conduct that defies the authority or dignity of the court. Such conduct interferes with the administration of justice and, hence is punishable under Section 29 of the *Environment and Land Court Act*, through either a fine or imprisonment. The purpose of punishment is to safeguard the rule of law as it interferes with the administration of justice, as held in *TSC vs KNUT* (supra). The ingredients to be met by an applicant were set out in *Shimmers Plaza Ltd -vs- NBK* (2015) eKLR and in *Basil Critocos -vs- Attorney General & Another* [2012] eKLR. There must be service of the order, or knowledge of the same, followed by deliberate and willful disobedience of the same by the alleged contemnor.
7. In this application, the affidavit of service by George Anami shows that the Hon. Attorney General and the citee were served with the amended decree and the subsequent orders and acknowledged receipt thereof. Evidence of follow ups by both the applicant and his counsel on record have not been challenged. Learned counsels who appeared for the citee, Mr. Odongo and Ms. Jepkemoi told the court that the citee had effected the decree but were unable to show any proof by way of a copy of the title deed and or an official search certificate.
8. The court is satisfied that the applicant has discharged the burden of proof that there is in existence a lawful decree or order of the court that was served upon the citee and has not been acted upon. Consequently, summons to appear is hereby issued to the Chief Land Registrar, Nairobi Land Registry to be served by the OCPD Central Police Station Nairobi, to attend court on 7/7/2025, to show cause why he should not be committed to civil jail for contempt of court.
9. Orders accordingly.

RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT KITALE ON THIS 16TH DAY OF JUNE 2025.

In the presence of:

Court Assistant - Dennis

Applicant present

Kesei for 1st defendant present

Omari for Namanda for the plaintiff present



Cherubet for the contemnor

HON. C.K. NZILI

JUDGE, ELC KITALE.

