



Rift Gas Limited v Muigai & 3 others (Environment and Land Case E209 of 2023) [2025] KEELC 6659 (KLR) (30 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6659 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E209 OF 2023**

JG KEMEI, J

SEPTEMBER 30, 2025

BETWEEN

RIFT GAS LIMITED APPLICANT

AND

GLADYS NJOKI MUIGAI 1ST RESPONDENT

EUNICE WANJIRU NJUGUNA 2ND RESPONDENT

JOSEPH WARUIRU MUIGAI 3RD RESPONDENT

EDWARD NGIGI MUIGAI 4TH RESPONDENT

(In respect to the Applicant's application dated 5/2/25 seeking orders for contempt and committal to civil jail)

RULING

1. The Applicant moved this Court under the provisions of Article 10 and 159 of *the Constitution*, section 5(1) of the Judicial Act, Sections 63(c) and the *Civil Procedure Act*, seeking orders for the 4th Respondent to be committed to civil jail for contempt of Court without the option of a fine.
2. The application is based on the grounds attached thereto and the supporting affidavit of Javan Omondi Otwoma, sworn on the same date. The deponent averred that on 23/4/24, the Court delivered its ruling, inter alia, restraining the 4th Respondent from interfering with the applicant's quiet and peaceful possession of the suit land, being Land Reference No Dagoretti/Mutuini/1370, pending the hearing and determination of an ongoing arbitration.
3. The Applicant averred that it has been in possession of the suit land and has allegedly made investments in the suit land in excess of Kshs. 100 Million to build and operationalize its liquefied petroleum gas storage and filling business.



4. That the Applicant and the Respondents are currently engaged in an arbitration process where the main issue to be resolved is the determination of the applicant's tenancy rights and interests in the suit land, that is to say, whether or not the tenancy was renewed automatically.
5. The 4th Respondent is accused of writing a letter to Energy and Petroleum Regulatory Authority (EPRA) requesting them to cancel the licence on the grounds that the 4th Respondent has not renewed the applicant's lease, despite the existence of Court orders favouring the applicant issued on 23/4/24. The applicant became aware of the letter when EPRA summoned it for a meeting at their offices to respond to the allegations. Unless the Court issues the orders sought, the 4th Respondent will continue in contempt, thus undermining the orders and the dignity of the Court, reducing them to a mere mockery.
6. The 4th Respondent vehemently opposed the application through his Replying Affidavit sworn on 26/6/25. He argued that the applicant failed to disclose material facts, namely that the alleged lease expired by effluxion of time on 31/8/24; that the applicant was notified of the intention not to renew the lease long before the orders were issued on 23/4/24, specifically on 29/10/23; and that the subject land has since been subdivided with new titles issued to new owners, making the alleged tenancy rights untenable. Furthermore, he stated that he has no privity of contract with the applicant, as the previous dealings were solely with the legal representatives of the estate of the late Njoroge, who have denied any obligation towards the applicant.
7. He stated that the current location of the applicant is Nbi/Block48/1370, which is now owned by the 4th Respondent and his brother Peter Waweru. As a result, the injunctive orders have been overtaken by events, making the applicant a trespasser in Nbi/Block48/1370. He also argued that the applicant did not meet the necessary criteria for the grant of interim measures of protection in any case.
8. Regarding whether the applicant was entitled to an automatic renewal of the lease, the deponent answered in the negative and argued that the lease agreement was mutually terminated on 30/6/22 due to rent default amounting to Kshs 16.1 Million.
9. The deponent admitted that he wrote the letter dated 6/11/24 to EPRA and described it as a fair comment made in good faith and in the interest of the public. Since a valid lease was a prerequisite for granting and maintaining a licence to operate an LPG business, he was obligated to inform EPRA about the expiry or absence of the lease to avoid being held liable for any incidents. He described the application as misconceived and urged the Court to dismiss it accordingly.
10. The 1st -3rd Respondents failed to file any response to the application.
11. On 11/6/25, the parties elected to canvass the application through written submissions. Except for the applicant, none of the respondents complied with the directions regarding the filing of written submissions.
12. The counsel for the applicant submitted and listed instances of disobedience of the Court's orders by the 4th Respondent, who instigated the revocation of the licence by EPRA on the grounds that he had decided not to renew the lease to the applicant. This action resulted in the cancellation of the energy licence, which was due for renewal on 20/2/25.
13. The applicant relied on the provisions of section 5(1) of the *Judicature Act* and section 63(c) of the *Civil Procedure Act* to demonstrate that this Court is empowered to punish for contempt to uphold the dignity and authority of the Courts and to prevent the ends of justice from being defeated. This was the ruling of the Court in the case of Fred Matiang'i, the Cabinet Secretary, Ministry of Interior



and Co-ordination of National Government v Miguna & 4 others [2018] KECA 789 eKLR, which stated that: at:

“When Courts issue orders, they do so not as suggestions or pleas to the persons at whom they are directed. Court orders issue ex cathedra are compulsive, peremptory and expressly binding. It is not for any party; be he high or low, weak or mighty and quite regardless of his status or standing in society, to decide whether or not to obey; to choose which to obey and which to ignore or to negotiate the manner of his compliance.”

14. The Court was urged to disregard the excuses advanced by the 4th Respondent geared to escape responsibility for his disobedience of the law.
15. Having read and considered the application, the replying affidavit, and the written submissions, the key single issue for determination is whether the application is merited, and secondly, who meets the cost of the application.
16. It is not in dispute that this Court (differently constituted) delivered a ruling on the 23/4/24 in the following terms;

“Pending the hearing and determination of the intended arbitration, this Court hereby issues an interim measure of protection restraining the 1st -4th Defendants whether by themselves their agents employees assigns servants or any other person claiming under them whatsoever from evicting harassing and or intermeddling in any manner whatsoever with the plaintiffs quiet and peaceful possession of all that parcel of land known as Title Number Dagoreti/ Mutuini/1370”

17. Black’s Law Dictionary, 9th Edition at page 360 defines contempt as follows;

“Contempt is a disregard of, disobedience to, the rules, or Orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behaviour or insolent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body.”

18. The constitutional imperative of contempt was captured in the case of Kenya Human Rights Commission V Attorney General and Another (2018) eKLR, the Court observed as follows:

“Article 159 of *the Constitution* recognizes judicial authority of the Courts and tribunals established under *the Constitution*. Courts and Tribunals exercise this authority on behalf of the people and for that reason they must not only be respected and obeyed but must also be complied with in order to enhance public confidence in the Judiciary which is vital for our Constitutional democracy. The Judiciary acts in accordance with the laws (Article 160) and exercises its authority through its judgments, decrees and orders or directions to check government power, keep it within the Constitutional stretch, hold the Legislature and Executive to account and thereby secure the rule of law, administration of justice and protection of Human rights. For that reason, the authority of the Courts and dignity of their processes are maintained when Court orders are obeyed and respected thus Courts become effective in the discharge of their Constitutional mandate...

19. Flowing from the provisions of *the Constitution*, this Court derives its statutory power to punish for contempt from several laws. Section 5 of the *Judicature Act* states that The High Court (and Courts of equal standing) and the Court of Appeal shall have the same power to punish for contempt of Court



as the High Court of Justice in England currently possesses, and that power shall include upholding the authority and dignity of subordinate Courts.

20. Section 63(C) of the [Civil Procedure Act](#) provides as follows:-

“In order to prevent the ends of justice from being defeated, the Court may, if it is so prescribed—

- (a)
- (b)
- (c) grant a temporary injunction and in case of disobedience commit the person guilty thereof to prison and order that his property be attached and sold.”

21. Order 40 Rule 3 of the Civil Procedure Rules outlines the consequences of contempt, which include, in cases of disobedience or breach of any Court Order, an order for the attachment of the guilty person's property. It may also require imprisonment for up to six months unless the Court directs otherwise. This illustrates that the punishment for contempt is serious; beyond attaching the contemnor's property, their liberty is also at risk.

22. Section 29 of the ELC Act provides even severe penalties for contempt as thus;

“Any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding two years, or to both”

23. It is well-established law that any person subject to a Court Order has an unqualified duty to comply with the Order, regardless of how unpalatable it may be, until the Order is discharged or set aside. See the case of *Hadkinson –vs- Hadkinson*, (1952) ALL ER 567, where the Court stated as follows;

“It is the plain and unqualified obligation of every person against, or in respect of, whom an order is made by a Court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void.

24. For an application for contempt to succeed, the Applicant is duly bound to prove the following 4 elements; -

- a. the terms of the Order (or injunction or undertaking) were clear and unambiguous and were binding on the Defendant;
- b. the Defendant had knowledge of or proper notice of the terms of the Order;
- c. the Defendant has acted in breach of the terms of the Order; and
- d. the Defendant's conduct was deliberate.

25. The 4th Respondent has not challenged the existence of the Court orders, nor has he shown that the orders were in any way unclear or problematic. Therefore, the Court finds that the orders were unambiguous.

26. I have perused the record and the ruling of 23/4/24 and am satisfied that the Court's decision was delivered in the presence of the counsel for the 4th Respondent. Therefore, the Court finds no grounds



to suggest that the 4th Respondent was unaware of the orders. At the very least, the 4th Respondent does not dispute knowledge of the said orders.

27. Did the 4th respondent breach the terms of the orders, or was his conduct deliberate? The Court received reasons exonerating the 4th respondent from any culpability regarding contempt of Court. In his sworn testimony, the 4th respondent denied being in contempt and argued that the lease, which is the subject of the dispute, expired by effluxion of time on 31/8/2024 and interalia that the lease was not renewed as early as 29/11/23. In my view, whether or not the applicant was entitled to the renewal of the lease is a matter that the parties agreed to submit before the arbitral tribunal, and it is not open for this Court to entertain. It suffices that there are clear and unambiguous Court orders that have yet to be set aside, reviewed, vacated, or successfully appealed.
28. The 4th Respondent argued that the orders have been overtaken by events. How? He claims that the original land Ref No Dagoreti/Mutuini/1370 was subdivided and transferred from the estate of Njoroge to third parties, including himself and his brother Peter Waweru. A copy of an e-search and a letter dated 6/7/23 were presented as evidence. This evidence indicates that the land was registered in the names of the duo on 6/7/23, prior to the filing of the current suit on 11/12/2023. Although the lease documents annexed by the applicant are undated, they indicate a term of 7 years commencing on 1/9/2017, with an option to renew for a similar period. At the risk of repeating myself, the issues concerning the expiry or otherwise of the lease are pending before the arbitral tribunal, and I will refrain from commenting on it in this ruling to avoid embarrassing the tribunal that will ultimately decide the case. However, it is sufficient to note that even if the property was transferred to the 4th Respondent on 6/7/23, it remains unclear whether it was subject to the lease. The Court is satisfied that, despite the apparent change in the land reference number, the suit land is the same, as confirmed by the 4th Respondent when he stated that the location of the applicant is Nbi /Block 48/1370. Therefore, the land's character remains consistent with the Court orders, and based on the evaluated evidence, the Court is not persuaded that the orders have been overtaken by events.
29. The Court's orders granted the applicant interim measures of protection restraining the 4th Respondent, his agents, or anyone claiming under him from evicting, harassing, or interfering in any way with the applicant's quiet and peaceful possession of the suit land.
30. The applicant stated that the 4th respondent wrote to EPRA, informing them that he had not renewed the land lease, leading to the revocation of its energy licence. This claim was admitted by the 4th respondent in paragraphs 14 and 15 of his replying affidavit sworn on 26/6/25, but he explained it as an act done in good faith and in public interest. The Court finds that the acts of the 4th respondent, when considered alongside the terms of the order, amount to interference with the quiet possession of the suit land. The Court has not been shown that the 4th respondent informed EPRA of ongoing arbitration and that the Court had issued interim protective measures, whose orders were active and also binding on both the applicant and the 4th respondent.
31. The totality of the evidence presented in this matter convinces the Court that the acts of the 4th respondent were in breach of the Court's orders and that he deliberately disobeyed them, thereby acting in outright contempt of the Court.
32. Costs follow the event, and since the applicant has succeeded in the application, I see no reason to deny them.
33. Final orders for disposal;
 - a. The application dated, 5/2/25, is merited. It is allowed.
 - b. The 4th Respondent is hereby held in contempt of the Court orders issued on 23/4/2024.



- c. The 4th Respondent is ordered to appear before the Honourable Court on 18/11/2025 for mitigation and sentencing.
- d. The 4th Respondent is at liberty to purge the contempt before then.
- e. Costs are in favour of the applicant.

34. Orders accordingly

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF SEPTEMBER 2025 THROUGH MICROSOFT TEAMS.

J G KEMEI

JUDGE

Delivered Online in the Presence of;

Ms. Shah HB for Mailu

NA for the 1st 2nd and 3rd Respondents

Mr. Mutua for the 4th Respondent

C/A – Ms Yvette Njoroge

