



**Kwengu & Company Advocates v Gold Lida Limited & another; Nairobi
County Government (Interested Party) (Miscellaneous Application 391 of 2018)
[2025] KEHC 14570 (KLR) (Commercial and Tax) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14570 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION 391 OF 2018**

**F GIKONYO, J
OCTOBER 9, 2025**

BETWEEN

KWENGU & COMPANY ADVOCATES ADVOCATE

AND

GOLD LIDA LIMITED 1ST CLIENT

FOTON EAST AFRICA LIMITED 2ND CLIENT

AND

NAIROBI COUNTY GOVERNMENT INTERESTED PARTY

RULING

Contempt of Court

1. The notice of motion dated 16th December 2024 filed by the advocate, Kwengu & Company Advocates, is a contempt application seeking: -
 1. Spent
 2. That Mr. Charles Kerich the Interested Party's County Executive Committee Member for Finance, Ministry of Finance and Economic Planning, be cited for contempt of court for deliberately failing to pay to the Advocate/Applicant Kshs. 106,736,841.83/- due as per the Certificate of Order against the Government dated 29th November 2024 and the Order dated 29th November 2024 by Hon. Justice Mabeya.



3. That the warrants of arrest and committal to civil jail be executed by the OCS, Central Police Station or through any other officer in a position to execute them as may be ultimately designated by this Honourable Court.
 4. That Mr. Charles Kerich, be punished for contempt of court and be committed to civil jail for a period not exceeding six (6) months.
 5. That the costs of this application be borne by the Interested Party.
2. The application is brought under Section 5(1) of the Judiciary Act, Order 51 Rule 1, Section 3A of the Civil Procedure Act and Civil Procedure (Amendment No. 2) Rules 2012 part 81 81.4 of the Civil Procedure Act, Section 21 of the Government Proceeding Act, Section 103 (2) (5) and 3 and Section 148 (6) of the Public Finance Management Act No. 8 of 2012 (PMFA) and Article 159 and 47 of the Constitution.
 3. The application is premised on the grounds set out in the application, the supporting affidavit sworn by Appell Kwengu, Advocate and written submissions dated 4th February 2025.
 4. The applicant served the application and the order of 17th December 2024 upon Soita & Associates through email on 18th December 2024. However, there was no response filed by either the respondents or the interested party.

The applicant's case

5. The core grounds cited by the applicant are:-
 1. That vide an order dated 27th November, 2024 this court granted an order compelling the interested party to pay the advocate Kshs.106,736,841.83/= and a certificate of order against the Government dated 29th 2024 was served upon the interested party.
 2. That the Certificate of Order against the Government dated 29th November 2024 and the order of 29th November 2024 were duly served upon the interested party's County Executive Committee Member for Finance who has deliberately refused and/or neglected to comply with the said order.
 3. That section 21(3) of the Government Proceedings Act imposes a statutory duty on the Accounting Officer of the Government to pay the money specified in a Certificate of Order against the Government to the person so entitled, or to his Advocate and Section 103(2)(a) and (3) and Section 148(2) and (3) of the Public Finance Management Act, No 8 of 2012 (PMFA) a County Executive Committee member for finance is the Accounting Officer of a County Government.
 4. That Mr. Charles Kerich was under an obligation to comply with the court orders dated 29th November 2024 and court orders must be obeyed by any person, even public officers and his continued disobedience offends the provisions of Article 159(1) of the Constitution.
6. The applicant submitted on the importance of adherence to court orders. It argued that courts have inherent power to punish for contempt of court. It also argued that the court can issue a criminal punishment for contempt of orders given by a court sitting in a civil capacity.
7. The applicant highlighted that the interested party and Mr. Kerich were duly served with the Court Orders, in compliance with Section 21(1), (2) and (5) of the Government Proceedings Act and thus had sufficient notice of the same. Therefore, they should have complied accordingly.



8. The applicant relied on: -
 1. Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] eKLR
 2. Madara Evans Okanga Dondo v Housing Finance Company of Kenya [2005] KEHC 506 (KLR)
 3. Refrigeration and Kitchen Utensils Ltd. v Gulabchand Popattlal Sha & Another, - Civil Application No. 39 of 1990
 4. Civil Application No. Nai 1 of 2017; Dr. Fred Matiang'i-The Cabinet Secretary, Ministry of Interior and Coordination of National Government v Miguna Miguna and 4 others
 5. Eliud Muturi Mwangi (Practising) in the name and style of Muturi & Company Advocates v LSG Lufthansa Services Europa/Africa GMBH & another [2015] eKLR
 6. Republic v Cabinet Secretary, Ministry of Education & another Exparte Thadayo Obanda [2018] eKLR
 7. Pheko and Others v Ekurhuleni Metropolitan Municipality (No 2) [2015] ZACC 10
 8. Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & Another
 9. A. B. & Another v R.B. [2016] eKLR
10. Republic v Returning Officer of Kamkunji Constituency & The Electoral Commission of Kenya HCMCA No. 13 of 2008
11. Robert Kisiara Dikir & 3 Others v The Officer Commanding Keiyan General Service Unit (GSU) Post & 3 Others Kisii, HCCP No. 119 of 2009
12. Kariuki & 2 Others vs. Minister for Gender, Sports, Culture & Social Services & 2 Others [2004] 1 KLR 588
13. Miguna Miguna v Director of Public Prosecutions, Director of Criminal Investigations & Inspector General of Police [2018] KEHC 8945 (KLR)

Analysis and Determination

9. The application under consideration is seeking to cite the interested party's County Executive Committee Member for Finance, Mr. Charles Kerich for contempt of the order dated 27th November 2024 and be committed to jail.
10. The certificate of order was duly issued and served. Subsequently the court issued the order dated 27th November 2024 pursuant to the Notice of Motion dated 2.8.2023, as hereunder: -
 - “ 1. THAT the Interested Party is hereby compelled to remit to the Advocate the sum of Kshs. 106,736,841.83/- from the sum of Kshs. 142,064,075/- due to the 2nd client in pursuance of the decree dated 29/6/2023.”
11. The order was clear and unambiguous and compelled payment of the sum indicated in the order. See the numerous cited literary work Contempt in Modern New Zealand.



12. The County Government and the contemnor are aware of the order. The order has not been complied with. The order is still subsisting. Thus, the order and knowledge thereof, form the basis for contempt of court proceedings against the responsible person in charge of finance for the County Government.
13. Accordingly, I find the County Executive Committee Member for Finance, Mr. Charles Kerich guilty for contempt of the order dated 27th November 2024.
14. A date for sentencing be taken.

Disposal

15. Therefore, the application dated 16th December 2024 is allowed in the terms set out above.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 9TH DAY OF OCTOBER, 2025
THROUGH TEAMS ONLINE APPLICATION.**

F. GIKONYO M

JUDGE

In the presence of: -

Khaseke for Applicant

Ibinta for 1st Interested Party

CA Kinyua

