



**Mukaisi & another v Muli & another; Music Copyright Society of Kenya (Interested Party)  
(Civil Case E066 of 2025) [2025] KEHC 14076 (KLR) (Civ) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14076 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL**

**CIVIL CASE E066 OF 2025**

**JN MULWA, J**

**OCTOBER 9, 2025**

**BETWEEN**

**BENARD AMUCHIZI MUKAISI ..... 1<sup>ST</sup> APPLICANT**

**JOHN GICHEHA NJOROGE ..... 2<sup>ND</sup> APPLICANT**

**AND**

**LAZARUS MUOKI MULI ..... 1<sup>ST</sup> RESPONDENT**

**SIMON KARIUKI NDERITU ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**MUSIC COPYRIGHT SOCIETY OF KENYA ..... INTERESTED PARTY**

**RULING**

1. The Applicants by their Motion dated 4/04/2025 sought orders to cite Lazarus Muoki Muli and Simon Kariuki Nderitu for contempt of court orders issued on 24/03/2025; and thereafter to commit the duo to civil jail for contempt of the said orders together with costs to the Applicants.
2. The reasons for the orders sought are found on its face and supported by an affidavit sworn by the 1<sup>st</sup> Applicant.
3. On 24/03/2025 this court issued orders pursuant to the application dated 20/04/2025 upon which the Applicants sought numerous orders against the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. Of relevance here is prayer No. 2 of the motion, wherein the court restrained the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, by a temporary injunction by themselves or their agents from mobilizing, hiring or bringing individuals and unauthorized persons to unlawfully disrupt the peace, intimidate members or prevent the membership of the interested party (Music Copyright Society of Kenya) from accessing services, attending meetings or participating in the



- lawful governance of the organization at the interested part's offices located at Church Road Wetlands Nairobi, pending hearing of the application dated 20/03/2025 interpartes, which was scheduled for 8/04/2025.
4. A Penal Notice accompanied the Restraining Order, that any disobedience or non-observance of the order would result in penal consequences to any person disobeying and not observing the same.
  5. The said orders were duly served upon the two Respondents via their email respective addresses – which they received shown hereafter.
  6. The Applicants aver that by a letter from the Respondents Advocates Okubasu & Munene Advocates dated 24/03/2025 acting on instructions from the duo Respondents as is expected informed, the Applicants stated that despite the court orders, they would storm the Interested Party's offices, justifying their actions by stating that they would allow what they deemed as unlawful change of governance in the said offices.
  7. Pursuant to their intentions, it is deposed that on 25/03/2025, the duo respondents mobilized a group of hired goons and stormed the offices and laid siege over the Interested Party's premises for over 10 hours disrupting the normal operations in the offices including issuing instructions and coordinating what they deemed to be lawful actions at the gate, and from Kipro Centre where the 1<sup>st</sup> Defendant retreated to further coordinate instructions to the goons and the 2<sup>nd</sup> Defendant taking away keys of the offices from the guards facilitating the unlawful group to gain entry, and proceeded to damage and destroy property therein.
  8. It is further deposed that on 31/03/2025 yet another group of goons under the command of the two Respondents broke into the premises and destroyed property in the offices which actions are stated as a serious affront to the authority of the court, in view of the restraining orders that were in force.
  9. The said letter dated 24/03/2025 is annexed as exhibit "BAM-3". The deponent deposes that he was personally present when the unlawful actions on both occasions took place and has annexed photographs and video as exhibits marked as "BAM-4", "BAM-5" and "BAM-6" as evidence.
  10. In opposition to the application, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed a notice of Preliminary Objection dated 7/04/2025 on the following grounds:-
    1. That the suit- seeks reliefs on behalf of the interested parties where the Applicants have failed to seek leave contrary to Section 329 of the *Companies Act*.
    2. That the suit is sub-judice and an abuse of Section 6 of the *Civil Procedure Act*.
    3. That the application is a gross abuse of court process ought to be struck out.
  11. Further, the Respondents filed a replying affidavit sworn on 25/03/2025 by one Richard Sereti a Legal Officer of interested party, whereof he posits that the firm of Ann Were Maloba & Co. Advocates purportedly acting for the interested party is not prequalified by the interested party and therefore has no authority to act for it and that the CEO Ezekiel Mutua was sent on annual paid leave and his engagement with the 3<sup>rd</sup> party was terminated by its Board of Directors with copy of letters attached and marked as "RS-1", and;
  12. That there are other dispute ongoing and orders in favour of the Respondent who are acting in favour of the society – attached on court orders marked "RS-2" and urge that the prayers sought in the application be dismissed.



13. Whereas directions were taken that parties in this motion file submissions on the application and the Preliminary Objection; they have not complied.

### **Analysis and determination**

14. I have read and confirmed that on the 8/12/2024, the court (Hon. Njoki Mwangi J) issued orders on motion dated 3/12/2024 (Prayer 2 and 3) in HCCOMM/E698/2024 that:-

In JR application No. E178/2024 (both matters pitting the parties in the instant suit and others) the Hon. Chigiti J (Sc) on 16/08/2024 issued orders in which by the judge's orders granted leave to the ex-applicant the Republic vs. Registrar of Companies; Director General of Business Registration Services vs. Jasper Odhiambo Lubedo & 9 Others, to apply for certiorari to remove into the high court and quash the entire decision of the respondent made on 14/08/2024 altering the applicants company register by removing the names of its valid directors and instead replacing their names with those of the interested parties herein; among other orders pending further directions (the interested parties herein are the 10 persons)

15. My understanding of the JR Judge's orders is that the decision of the Respondent (herein the Registrar of Companies) made on 14/08/2024, altering and removing the valid directors and replacing them with the interested parties (herein the 10 persons) was quashed. Further, these other cases in the various courts are not relevant in the circumstances of this motion.
16. Of relevance here and in the instant motion is the orders of the court issued on 24/03/2025 upon the application dated 4/04/2025. The two Respondents were parties to the motion and duly represented by their Advocates on record Olubasu & Munene Advocates the Preliminary Objection and prior orders in the various courts are not at issue now,
17. A further interrogation of the court orders show that the applicants in this suit (HCCC E 066/2025) are not among the interested parties referred to in the cases cited above nor are they directly referred to therein save for the Music Copyright Society of Kenya and the Registrar of Companies who are interested parties in this suit and parties in the other suits cited above
18. It is without a doubt that the two Respondents herein were restrained by a court order dated 24/03/2025 from interfering with operations of the Music Society of Kenya the Interested Party. This order was a lone court order.
19. It is clear that the duo had the knowledge of the court orders as shown in the letter written by their advocates, dated 24/03/2025, under their instructions soon after issue of the court order. Indeed the said letter refers to the impugned orders and despite the knowledge of the restraining orders, they said they would proceed to the offices of the interested party, with intention to storm the offices, justifying their intentions by stating that they would not allow what they deemed as an unlawful change of governance within the interested party's offices.
20. The said restraining orders were issued by this court on 24/03/2025 as foretasted. They were to remain in force upto 16/06/2025 upon extension by the court on 8/04/2025. These orders were blatantly disobeyed by the two Respondents Lazarus Muoki Muli and Simon Kariuki Nderitu.
21. True to their furtherance of their unlawful actions, they stormed the offices of the Interested Party, commandeered goons to attack and destroy property therein on 25/03/2025 and once again on 31/03/2025.



22. This without a doubt was nothing but outright impunity aiding and abetting violation of court's orders and actively participating in the wanton destruction of the interested party's property, which amount to contempt of court orders, a serious affront to the authority and dignity of the court.
23. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents in their Preliminary Objection dated 7/04/2025 other than stating their objections, they have not shown in any manner why or reasons for their blatant disobedience of the court orders while the suit was in progress, and the orders of restraint against the duo respondents was in force. They did not state in what aspect if any, the suit was sub-judice nor an abuse of court process. This aspect is at this point not an issue, or relevant at all. Current issue before the court is the orders issued on 24/03/2025 directed to the two Respondents.
24. In the case of *Wendano Matuu co. Ltd & 2 Others v. Joslusa Kimeu Kioko* [2019] eKLR the court (Odunga J. as he then was) while discussing on similar issue, held that knowledge of court orders and disobedience thereof, is sufficient basis for finding of contempt of court orders. There is no doubt that at all times the two Respondents had knowledge of the court orders.
25. Citing the holding in *Basil Criticos v. Attorney General & 8 Others* [2012] eKLR Lenaola J as he then was) rendered that where a party clearly acts and shows that they had knowledge of a court order, the strict requirement that personal service must be proved is rendered unnecessary.
26. Further the Court of Appeal case of *Martin Nyaga Wambolla & 4 Others v. Speaker of the Senate & 6 Others* [2014] eKLR stated that currently, the law that required personal service of an application or orders of court in contempt proceedings has since changed and the law as it stands today is that knowledge of an order is sufficient for purposes of contempt proceedings.
27. I have earlier made a finding that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents had full knowledge of the restraining orders of the court dated 24/03/2025. They have not denied such knowledge or at all. They decided to disobey the court orders with impunity and thereby caused damage and loss to the interested party's property.
28. The court in the *Martin Wambora* case (supra) added that anything done in disobedience of court orders is null and void ab initio and is a nullity in law... that it is a grave issue as it undermines the rule of law.
29. In summation, in order to maintain the rule of law and that dignity of the court is upheld at all times, anybody who knowingly and intentionally disobeys a court order and does that which the court order restrains him from doing, then that person must be punished for the wrongdoing.
30. In the cases of *Econet wireless Kenya Ltd v. Minister for Information & Communications* [2005] eKLR and *Republic V. Ahmed Abolfathi Mohammed & Another* [2018] eKLR where the courts emphasized the need to maintain law and order by obeying court orders and such disobedience undermines the authority of the court.
31. For the dignity of the court and rule of law to be maintained and sustained, the court orders must be obeyed by all and sundry, whether in their minds and thoughts, they deem the court orders to be unlawful, making no sense or outright nonsense. A party who has such thoughts has an avenue to address its concerns by moving back to court to seek variation setting aside or whatever it may desire, and ought not take the law in its own hands.
32. It cannot be that a party dissatisfied with a court order should disobey it first, cause mayhem, destruction etc then move to court seeking validation of their ill-intentioned notions that the orders were unlawful and therefore throw them in the dustbin!



For the foregoing the 1<sup>st</sup> and 2<sup>nd</sup> Respondents Lazarus Muoki Muli and Simon Kariuki Nderitu are hereby cited for contempt of court orders issued on 24/03/2025.

33. That said, the two Respondents, Lazarus Muoki Muli and Simon Kariuki Nderitu are ordered to attend court in person, with or without their Advocates, to show cause why they should not be punished in the manner provided under the law of such contempt on a date as may be agreed on the ruling on date of the motion dated 4/04/2025.

Orders accordingly.

**DELIVERED DATED AND SIGNED AT NAIROBI THIS 9<sup>TH</sup> DAY OF OCTOBER, 2025.**

.....

**JANET MULWA.**

**JUDGE**

