



Langat v Trimborn Agricultural Engineering Limited & 3 others (Environment and Land Case E025 of 2022) [2025] KEELC 6721 (KLR) (3 October 2025) (Ruling)

Neutral citation: [2025] KEELC 6721 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND CASE E025 OF 2022
A OMBWAYO, J
OCTOBER 3, 2025**

BETWEEN

ISAAC KIPNGETICH ARAP LANGAT PLAINTIFF

AND

TRIMBORN AGRICULTURAL ENGINEERING LIMITED 1ST DEFENDANT

MURANGA GROUP LIMITED & 2 OTHERS & 2 OTHERS & 2

OTHERS 2ND DEFENDANT

RULING

1. Maranga group Ltd herein after referred to as the applicant has come to this court vide the application dated 24th April 2025 seeking orders that this Honorable Court be pleased to stay the execution of the ruling and orders made on 8th April, 2025, pending the hearing and determination of this application. Moreover, that the Honorable Court be pleased to review and set aside the ruling and orders made on 8th April,2025, finding the 2nd Defendant/ Applicant in contempt and imposing a fine of Kshs.2,000,000.00. The Applicant be granted leave to respond to the contempt application out of time, and the same be heard afresh on its merits. Lastly, that this honorable court be pleased to define the Status quo contemplated in its earlier ruling delivered on 3rd July 2023.
2. The application is premised on grounds that the Applicant was condemned unheard, contrary to Article 50 of *the Constitution*, due to the unexplained inaction of previous counsel . The applicant states that the contempt finding was based on an ambiguous and undefined "status quos" whose clarification had been left open by the Court.
3. The applicant contends that the allegations of forgery relied upon in the contempt application were unsubstantiated, and the burden of proof in such quasi-criminal proceedings was not discharged by the Applicant therein. The applicant only became aware of the orders on 16th June 2025 through a



letter that had been forward to one of the directors by its former counsel and moved with speed to arrest the injustice.

4. He laments that the court imposed a fine and issued sentencing orders without first calling the applicant to show cause, contrary to fair process. He believes that no prejudice will be occasioned to any party if the orders sought are granted, but the Applicant stands to suffer great prejudice if the impugned ruling is allowed to stand.
5. The application is supported by the affidavit of Evans Machoka Kimori the Director of the 2nd defendant. According to the applicant the contempt application proceeded undefended by the applicant due to the mistake of his counsel hence the applicant was condemned unheard, the status quo was not clear.
6. In response, the respondent filed a replying affidavit stating that this application is bereft of merit, and is legally defective, principally because applicant has already filed an appeal challenging the ruling, and as such it is not legally permissible to move this Court for orders of review. On this ground alone, this application should fail.
7. The respondent further states that the applicant herein disobeyed this Court's orders of 3rd July, 2023 and 8th April, 2025 and are therefore not deserving of this Court's audience, favour or discretion,. The Applicant cannot claim they were condemned unheard, yet they were represented by Counsel during the course of the contempt application. The Applicant has not met the threshold for grant of orders of stay of execution, and cannot be heard on an application for review
8. The respondent contends that this Honorable Court made an order on 3rd July; 2023 prohibiting any activities on the suit premises. Despite the existence of the said order the applicant proceeded to fraudulently obtain titles in its name and leased the suit parcels to third parties on 11th October, 2024. The said third parties went ahead to set up extensive buildings, businesses and churches on the suit premise all of which were in violation of the order of 3rd July 2023. The 1st Defendant herein as a result of the Applicant's actions filed the contempt application dated 12th February 2025. This Honorable Court declared the Applicant in contempt of the Order dated 3rd July, 2023 vide its order issued on 8th April, 2025.
9. Subsequently, the 2nd defendants advocates communicated that they would comply with the orders issued on 8th April 2025 by evicting the third parties on the suit properties. Shockingly the Applicant's failed to honour their promise. Additionally, the Applicant's hitherto are yet to comply with the Court's order dated 8th April, 2025 which directed them to pay a fine of Ksh 2,000,000 and to purge the contempt within fifteen (15) days.
10. According to the respondent, it is an established principle that Court orders must be obeyed. Parties against whom orders are made cannot be allowed to trash them with impunity Therefore, it follows that the Applicant should not be rewarded for not obeying Court orders but should instead not be granted audience, nor favour from the Court.
11. In response to the applicant's assertion on an undefined status quo, the respondent states that nothing could be further from the truth and as a matter of fact, and the status quo was a freeze order stopping all activities on the suit premises. The Applicant has been disobeying this order all through since its issuance on 3rd July, 2023. Secondly, the Applicant cannot claim they were condemned unheard, yet they were represented by Counsel during the course of the contempt application.
12. The respondent states that when the hearing of the contempt application came up on 11th March 2025, the Applicant s Advocates Messrs. Githui Advocates LLP, were not only present but indicated to the Court that they had not filed their response, and did not seek leave to file a response to the contempt



- application. Furthermore, they did not object to the setting of a ruling date and thus the Applicant was duly represented. Additionally, the Applicant's counsel was always aware of the Application and chose not to participate in the Court Process despite acknowledging receipt of the contempt application and discussing the same with the directors of the Applicant.
13. Subsequently, Advocate's communicated that they would comply with the orders issued on 8th April, 2025 by evicting the third parties on the suit properties. Shockingly the Applicant's failed to honour their promise, Additionally the Applicant's hitherto are yet to comply with the Court's order dated 8th April, 2025 which directed them to pay a fine of Ksh 2,000,000 and to purge the contempt within fifteen (15) days.
 14. Secondly the Applicant cannot claim they were condemned unheard yet they were represented by Counsel during the course of the contempt application*
 15. Moreover, in response to ground of being condemned unheard on account of their advocate's inaction , the respondent states that it is not a sufficient reason for their lack of participation, In litigation, it is not enough for a party to simply blame the advocates on record for all manner of transgressions in litigation. Courts have always emphasized that parties have a responsibility to show interest in and follow up on their cases even when represented by counsel
 16. In response to the Applicant's prayer for leave to respond to the Contempt application, the respondent states that the application dated 12 th February 2025 should fail as the Applicant was aware of the Application and the hearing date and ought to have put in their response within the legally Prescribed time
 17. Thirdly the Applicant has not met the threshold for grant of orders of stay of execution, and cannot be heard on an application for review,
 18. The Applicant has not filed their application timeously. The Applicants were aware 2 of the ruling delivered on 8th April; 2025 and even communicated that they would comply with the said order, but failed to do so.
 19. Only after the 1st Defendant threatened them with further contempt orders, did they deem it fit to file this application on 24th June,. 2025, which is evidence of their lack of interest in addressing the said orders.
 20. Additionally and most importantly the Applicant has failed to give security for due performance of the Order/Decree dated 8th April", 2025 which is a condition for grant of stay The said Order condemned them to. pay and, as such, they should be directed to offer security for due compliance- with this order,
 21. The Applicant has failed to satisfy the legal threshold for grant of stay to be issued and thus the same should fail.
 22. On the application for review, the Applicant has already filed an appeal to the. ruling of 8th April, 2025, and in so doing as forfeited their right to being granted a review, ergo this application should be dismissed.
 23. The Applicant through his actions of ignoring lawful Orders of this Court and all other initiatives to appear and defend himself, has shown disdain to the authority of this Court, and his on.ly interest in filing the present application is to frustrate the Court's.
 24. The Applicant has come to Court with unclean hands by not complying with any of the Orders of this Honorable Court issued on. 3rd July, 2023 and 8th April, 2025 and therefore the Court should deny them audience,



25. It is a cardinal principle of Equity that Equity aids the vigilant, not the indolent.
26. Manifestly, the Applicant has all along acted with bad faith as regards resolution of this dispute and the current application is another attempt to scuttle resolution of this dispute through the court process.
27. From the foregoing, it is evident that the Application is an afterthought, lacking in merit, and made in bad faith
28. I have considered the application and do find that the applicant having lodged an appeal in the Court of Appeal, this court lacks jurisdiction to review its decision. matter being before the court of appeal this court cannot review its orders as it will be interfering with the appeal process. Parties should elect whether they want to pursue an appeal or review. Section 80 of the Civil Procedure Act is very clear..

80. Review

29. Any person who considers himself aggrieved—
 - (a) By a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or
 - (b) By a decree or order from which no appeal is allowed by this Act, may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit.

The applicant has already preferred an appeal by filing a notice of appeal and therefore cannot apply for review.

Order 45 Rule 1 provides:-

“ Any person considering himself aggrieved;

- a. By a decree or order from which an Appeal is allowed, but from which no appeal has been preferred; or
- b. By a decree or order from which no appeal is hereby allowed, and who form the discovery of new and important matter or evidence which after the exercise of the diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or an account of some mistake or erroron the face of the record, or for any other sufficient reasons, deserves to obtain a review of the decree or order, may apply for a review of the judgment to the court which passed the decree or made the order without unreasonable delay.”

30. I do find that the applicant has not demonstrated the reason that caused his advocate not to defend the application for contempt as required by law. There is no new and important matter that has been brought to this courts attention. Moreover there is no evidence of an error or mistake on the face of the record. The applicant was given an opportunity to be heard, he appeared through his advocate who took the ruling date and therefore he cannot blame his advocate for choosing not to oppose the application. The entire application is dismissed with costs.

Signed by/for:

HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.



