

REPUBLIC OF KENYA
IN THE ENVIRONMENT & LAND COURT
AT KILGORIS
ELCLC E006 OF 2025

ABEL MORANGA ONGWACHO.....
.....PLAINTIFF

VERSUS

LENARD OLE SEME.....
DEFENDANT

RULING

1. This Ruling is in respect of the application dated 4th of June 2025 taken out by Onyango, Jonyo Co. Advocates, the application seek that the Defendant Leonard Ole Seme be found to be in contempt of the court order issued on 02.04.2025 and the liable to be punished for contempt.
2. The application is premised on grounds *inter alia*,
 - (i) That the Defendant has disregarded and/or ignored orders of the court issued on 02.04.2025 and has fenced the suit property denying Applicant access to it.
 - (ii) That the order was very clear and unambiguous and was served and it bore a penal Notice on the consequences of disobedience of the order.
 - (iii) The conduct of the Defendant is subverting the authority and dignity of the Honourable court and must be dealt with firmly so that the court's reputation and authority is not brought into ignominy.
3. The Application is supported by the affidavit of the Applicant who reiterates the grounds in support of the application and has annexed a copy of the order dated 02.04.2025, together with a certificate under Section 106(3)(4) of the evidence Act, and photographs showing the extent of Trespass.
4. The Application was served and was slated for hearing on 30.06.2025; on the said date no Response had been filed and the court being satisfied as to service and noting that the application was unopposed the court directed it to proceed on its merits.

5. Mr. Jonyo learned counsel for the Applicant cited the decision in the case of Republic Vs. County Chief Officer Finance Economic Planning, Nairobi City County in support of his submissions, as well as TSC Vs. KNUT & 2 Others Petition No. 20/2023 and the Court of Appeal decision in Civil Application Number 4/2016 AB & Another Vs. R.D.
6. Upon consideration of the application and noting that the same was unopposed and the affidavits evidence uncontroverted, the court is satisfied that the order was served upon Mr. Ole Seme and further that the order was unambiguous and it restrained Mr. Ole Seme, his agents, servants from trespassing, wasting, constructing, and alienating Transmara/Moyoi/1158.
7. That by erecting a fence on the disputed property, Mr. Ole Seme constructed a barrier on the suit property the consequence of which was to make the suit property inaccessible to the Applicant the registered owner, thus wasting the same.
8. In view of the above, and noting that court orders are not mere suggestions, as they bind the parties named herein, and in view of the penal notice served alongside the said Order, Mr. Ole Seme deliberately disobeyed the court orders and he is hereby found to be in contempt of court. Thus, the application dated 04.06.2025 is allowed in terms that: -
 - (1) The Defendant/Respondent Mr. Leonard Ole Seme is found to be in contempt of court, of the orders dated 02.04.2025.
 - (2) The said Mr. Ole Seme shall be denied audience before court until he purges the contempt.
 - (3) The said Mr. Ole Seme to purge the contempt by removal of the fence erected on the suit property and giving access to the Applicant.
 - (4) Mr. Ole Seme to appear physically in court on 16.10.2025 or be brought in court under the Escort of the OCS Kilgoris police station and/or officers acting under his command for mitigation and sentencing.
 - (5) Costs of application are awarded to the Applicant.

Dated at Kilgoris this 2nd day of October, 2025.

Hon. M.N Mwanyale
Judge

In the presence of

CA - Emmanuel/Sylvia/Sandra

Mr. Jonyo for the Applicant

N/A for the Respondent