



Sanghani & 2 others (For and on Behalf of Parklands Residents Association) v Mbogo & 5 others; Mbogo & 8 others (Contemnor); & 108 Others (Interested Party) (Environment and Planning Petition E012 of 2025) [2025] KEELC 6920 (KLR) (14 October 2025) (Ruling)

Neutral citation: [2025] KEELC 6920 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND PLANNING PETITION E012 OF 2025
OA ANGOTE, AA OMOLLO & CG MBOGO, JJ
OCTOBER 14, 2025**

BETWEEN

**KAMALKUMAR R. SANGAHANI 1ST APPLICANT
JAGS KAUR 2ND APPLICANT
TEDDY OBIERO 3RD APPLICANT
FOR AND ON BEHALF OF PARKLANDS RESIDENTS ASSOCIATION**

AND

**PATRICK MBOGO 1ST RESPONDENT
NAIROBI CITY COUNTY GOVERNMENT 2ND RESPONDENT
GODFREY AKUMALI ATIEL 3RD RESPONDENT
CECM BUILT ENVIRONMENT AND URBAN PLANNING
SECTOR 4TH RESPONDENT
PATRICK ANALO AKIVAGA 5TH RESPONDENT
LAND USE PLANNING, NAIROBI CITY COUNTY 6TH RESPONDENT**

AND

**PATRICK MBOGO CONTEMNOR
GODFREY AKUMALI ATIEL CONTEMNOR
PATRICK ANALO AKIVAGA CONTEMNOR
GEOFFREY MOSIRIA CONTEMNOR
MICHAEL MUGE CONTEMNOR
HONGBING LIU CONTEMNOR**



LIU BO CONTEMNOR
LONG YUN CONTEMNOR
GRANDPINE COMPANY LIMITED CONTEMNOR

AND

& 108 OTHERS INTERESTED PARTY

RULING

1. The Petitioners/Applicants filed a Notice of Motion dated 23rd May, 2025 seeking for the following orders;
 - a. Spent;
 - b. That Notice be issued to Patrick Mbogo (4th Respondent/1st Contemnor), Godfrey Akumali Atiel (5th Respondent/2nd Contemnor), Patrick Analo Akivaga (6th Respondent/3rd Contemnor) Geoffrey Mosiria (4th Contemnor), Michael Muge (5th Contemnor), Hongbing Liu (6th Contemnor), Liu Bo (7th Contemnor), Long Yun (8th Contemnor) and Grandpine Company Limited (9th Contemnor) to attend court to Show Cause Why they should not be personally, jointly and severally found and held guilty for refusing, failing and/or neglecting to Obey the Honourable Court'S Orders given on 5th March 2025 in ELG petition No. E012 of 2025: Kamalkumar Rajinkant Sanqhani & 2 Others Vs Nairobi City County Government to Section 29 Of the *Environment and Land Court Act*.
 - c. That Patrick Mbogo (4th Respondent/1st Contemnor), Godfrey Akumali Atiel (5th Respondent/2ndContemnor), Patrick Analo Akivaga (6th Respondent/3rd Contemnor) Geoffrey Mosiria (4th Contemnor), Michael Muge (5th Contemnor), Hongbing Liu (6thConternnor), Liu Bo (7th Contemnor), Long Yun (8th Contemnor) and Grandpine Company Limited (9th Contemnor) be personally, jointly and severally found and held to be in contempt of, and in deliberate and willful disregard and disobedience of the Court Order given on 5th March 2025 in ELC Petition NO. E012 of 2025- Kamalkumar Rajinkant Sanghani & 2 Qthers vs Nairobi City County Government & 107 Others.
 - d. That Patrick Mbogo (4th Respondent/1st Contemnor), Godfrey Akumali Atiel (5th Respondent/2ndContemnor), Patrick Analo Akivaga (6th Respondent/3rd Contemnor) Geoffrey Mosiria (4th Contemnor), Michael Muge (5th Contemnor), Hongbing Liu (6th Contemnor), Liu Bo (7th Contemnor), Long Yun (8th Contemnor) and Grandpine Company Limited (9th Contemnor) be, and are committed to civil jail for such period/s of time that this Honorable Court may find just and equitable.
 - e. That this Honourable Court makes such other and further orders, including an Order that the Contemnors, singularly, jointly and severally purge the contempt by restoring the land of the property known as L.R. NO. 1870/1/320- Jalaram Road, Parklands Area, to its condition as at 15th April 2025 and further, perform acts and conduct that will meet the ends of justice and ensure obedience of the court order given on 5th March 2025 in ELC petition No. E012 of 2025: Kamalkumar Rajinkant Sanghani & 2 Others Vs Nairobi City County Government & 107 Others.



- f. That costs of this application be provided for.
2. The application is supported by two affidavits sworn on 23rd May 2025 and 13th June, 2025 respectively by Kamalkumar Rajinkant Sanghani in his capacity as the 1st Petitioner and on behalf of the other Petitioners and the general public.
 3. The Motion is based on the grounds, inter alia, that on 3rd March 2025, the Petitioners filed a Constitutional Petition and an interlocutory application seeking to restrain the Respondents (the Nairobi City County and its employees and or agents) from approving or permitting any development within the Parklands Area until a proper Physical and Land Use Development Plan is prepared and published in compliance with the *Physical and Land Use Planning Act*, 2019.
 4. The Petition specifically prayed for various conservatory and mandatory injunctions targeting development permissions and construction activities in the Parklands area. On 5th March 2025, the court granted a conservatory order restraining the 1st -6th Respondents from processing or approving development applications within the said area pending hearing and determination of the application.
 5. The 1st Petitioner deponed that this order was served upon the 1st -6th Respondents and all the Interested Parties and the general public vide an advertisement placed in the Standard Newspaper of 17th March 2025. Despite the existence and subsequent extension of this court order, he and other fellow residents observed and reported unlawful tree felling and excavation works on L.R. No. 1870/1/320 along Jalaram Road, Parklands.
 6. He deposed that these activities continued despite multiple complaints and a visit to the site by one of the 4th Respondent's representatives, confirming the illegal activities. According to the Petitioners, investigations revealed that the 6th to 8th Contemnors, linked to Grandpine Company Limited, and the 9th Contemnors, were responsible for the works. The Applicants stated that a permit allowing the cutting down of trees had been issued on 20th May 2025 by the 1st Respondent, with the 1st to 5th alleged contemnors being aware of it. Still, they refused to revoke or stop the felling of the trees and the ongoing excavation.
 7. Furthermore, it was deponed, on 21st May 2025, it is alleged that there were two excavators working on the subject property, and the tree felling was still ongoing, with the last century-old tree felled that evening. The Applicants stated that the 1st to 5th alleged contemnors also received, considered, and approved an application for excavation and transportation of soil dated 14th May 2025 by the owners/ developers of the said property.
 8. The Applicants contend that the permit/licence allowing cutting down trees was given in breach and disobedience of the Orders issued on 5th March 2025. The contemptuous actions, it was averred, have severely undermined the authority of the court and threatened the environment and public rights, including the right to life and a clean, healthy environment. They asserted that court orders must be respected to uphold the rule of law and maintain public confidence in the justice system.
 9. The application was vehemently opposed by the 1st to 5th alleged contemnors vide the Replying Affidavit sworn by Patrick Analo Akivaga on 5th June 2025. The 9th alleged Contemnors also opposed it by their replying affidavit sworn on 5th June 2025 by Hongbing Liu, its director on its behalf and on behalf of the other directors named as the 6th, 7th and 8th alleged Contemnors.
 10. The 1st -5th alleged contemnors aver that the Conservatory Order only temporarily restrained the 1st to 5th Respondents from processing development applications in the Parklands area after its issuance on



- 5th March 2025, and that the Order cannot be applied retrospectively. This position was supported by the 6th to 9th contemnors, who stated that the Petitioners' allegations against them are baseless.
11. They deposed that to succeed in civil contempt proceedings, the Applicant has to prove the terms of the order were clear, knowledge of these terms by the Respondent/Contemnor, failure by the Respondent to comply with the said terms of the Order, and that the said failure must be deliberate. The 6th to 9th alleged contemnors contended that they were not aware of any Orders directed at them and that there is no evidence of service of such orders before this court.
 12. It is deposed on behalf of the 6th to 8th alleged contemnors that the Order referred to came into effect on 5th March 2025 and that the same was directed to the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents restraining them from receiving, considering and processing any application for development permission on properties within the defined Parklands area.
 13. It was explained that the 9th alleged Contemnor, the owner of property L. R. No.1870/1/320 along Jalaram Road, applied for change of user from a single dwelling unit to multi dwelling units (apartments), and that the said application was approved and a Notification of Approval issued on 14th November 2024.
 14. They assert that the 9th alleged Contemnor then made another application to develop proposed residential apartment Block of 18 Floors comprising of 2 Bedrooms and 3 Bedrooms on 24th January 2025 which was approved on 13th February 2025 and a Notice of Approval issued on the same day. It was argued that the dates of submission and approvals of the application was before the 5th March, 2025 when the Order was issued, thus not within the ambit of the subject order.
 15. The 1st-5th alleged Contemnors asserted that the Applicants have not provided evidence of any willful breach of the order and maintain that they respect the rule of law and remain compliant with the court's directions.

Submissions

16. The Petitioners/Applicants filed submissions dated 11th July 2025 in support of their Motion. In opposition, the 1st -5th alleged contemnors filed submissions dated 16th July 2025, while the 6th -9th alleged contemnors filed submissions dated 28th July 2025.
17. The Applicants outlined the definition of contempt of court as per the Black's Law Dictionary, 2nd Edition, which defines it as a willful disregard of the authority of a court of justice or legislative body or disobedience to its lawful orders; and that Contempt of court is committed by a person who does any act in willful contravention of its authority or dignity, or tending to impede or frustrate the administration of justice, or by one who, being under the court's authority as a party to the proceedings therein, willfully disobeys its lawful orders with an undertaking he has given.
18. They submitted that the acts complained of amount to willful disobedience of lawful court orders grounding their application under the provisions of Section 5 of the Judicature Act, Section 29 of the Environment and Land Court Act, and relevant provisions of the Civil Procedure Act, which collectively empower courts to punish for willful disobedience of Orders.
19. The Applicants submitted that the law of contempt is essentially concerned with maintenance of public confidence in the administration of justice by courts of law as was held in the case of *Abbeybarn Limited vs Infinity Gemstones Ltd (2000) KLR 248*; that obedience of court Orders play a primal part in the sustenance of judicial authority and dignity and that disobedience of court orders on the



other hand not only undermines the very foundation of the rule of law, but also erodes the dignity and authority of the courts.

20. The Applicants also cited the case of *Shimmers Plaza Ltd vs National Bank of Kenya* (Civil Appeal No. 33 of 2012) and *Christine Wangari Chege vs Elizabeth Wanjiru Evans & 11 Others* (2014) eKLR, emphasizing that knowledge of a court order by a party or their advocate is sufficient for contempt proceedings.
21. The Applicants relied on the case of *Econet Wireless Kenya Ltd vs Minister for Information & Communication of Kenya & Another*, where Ibrahim J, (as he then was) reiterated that it is essential for the maintenance of the rule of law and order that the authority and the dignity of our courts are upheld at all times and that the court will not condone deliberate disobedience of its Orders and will not shy away from its responsibility to deal firmly with proved contemnors, and that it is a non-negotiable obligation to obey court Orders, even if one believes the Order is irregular or void.
22. In addition, they relied on the South African case of *Burchell vs Burchell*, Case No.364/2005 and *Refrigeration and Kitchen Utensils Ltd vs Gulabchand Popatlal Shah & another*, (Civil Application No. 39 of 1990), where the courts affirmed that obedience of court Orders is critical to upholding the rule of law and preserving public confidence in the justice system. The Applicants argued that failure to punish the contemnors would erode the authority of the courts, encourage impunity, and amount to abdication of judicial responsibility.
23. The 1st to 5th alleged contemnors submitted that the central issue for determination is whether the 1st Respondent's Physical Land Use Planning Committee considered, processed, or issued a development permission in favour of the 9th alleged contemnor after the issuance of a conservatory order on 5th March, 2025. They submitted that they do not deny knowledge of the court order; but assert that the Tree Cutting/Pruning/Movement Certificate issued on 20th May 2025 cannot be construed as development permission.
24. In support of this argument, they cited the case of *Ndambiri & Another vs Nairobi Metropolitan Services & 19 Others* [2024] KEELC 13649 (KLR), stating that preparatory works such as tree clearing or demolition do not amount to "development" under the *Physical and Land Use Planning Act*, 2019 (PLUPA). They argued that development permission had already been granted on 13th February 2025, before the conservatory order, and the Tree Clearance Certificate merely complied with condition (h) of that permission.
25. They argue that for a finding of civil contempt to be made, the applicant must prove beyond reasonable doubt that the terms of the order were clear and unambiguous, the contemnor had knowledge of the order and acted in breach of the order, and that the breach was deliberate. To buttress this position, they relied on the case of *Samuel M. N. Mweru & Others vs National Land Commission & 2 Others* [2020] eKLR, and reiterated the Court of Appeal decision in *Mutitika vs Baharini Farm Ltd* (1985) KLR 229, 234 for the proposition that because contempt proceedings may affect liberty, a higher standard of proof, almost akin to criminal cases, must be met. The 1st to the 5th alleged contemnors argued that in the present case, there is no conclusive evidence that they acted in breach of the said court order.
26. The 6th, 7th, 8th, and 9th alleged Contemnors challenged their joinder in the contempt proceedings on the basis that no competent Order of the court was directed at them, and that the Conservatory order dated 5th March 2025 specifically restrains the 1st to 5th Respondents and their planning committees from receiving, considering, or processing development applications within the Parklands area without mentioning the 6th to 9th alleged Contemnors.



27. Further, they stated that the directors of the 9th alleged Contemnor company, which is a limited liability company, are shielded by the corporate veil, and no application has been made to pierce this veil. In support, they cited the case of *Katsuri Limited vs Kapurchand Devar Shah* [2016] eKLR, where the court emphasized that directors cannot be personally liable unless the veil is lifted. Additionally, the Court of Appeal in *Geoffrey Kathuri Kison & 10 Others vs East African Portland Cement Co. Ltd & 5 Others* [2021] eKLR reinforced that failure to cite the company as a contemnor or lift the corporate veil makes it impossible to hold its directors liable for contempt.
28. The 6th to 9th alleged Contemnors argued that even if such an application was made, courts have consistently held that lifting the corporate veil is not automatic and must be justified by factors such as fraud or improper conduct. They supported their argument with the decision in the case of *Jayden Limited vs Bradley Limited* [2021] KEHC 127 (KLR), which held that piercing the veil is only appropriate when the character or conduct of the company necessitates it and that in this case, no such grounds have been demonstrated.
29. On whether contempt was committed, the Respondents relied on the applicable standard required as held in the case of *Samuel M.N. Mweru & Others* (Supra) and argued that the same has not been met. That in this matter, the 6th to 9th alleged Contemnors had no prior notice of the conservatory Orders before being served with the instant application and that the Newspaper publications do not meet the legal threshold of personal service or adequate notice.
30. Additionally, the 6th to 9th alleged Contemnors assert that even if they were aware of the Order, its terms do not bind them or require any action or inaction on their part. They contended that the Order restrains the County Government of Nairobi and its planning committees, not private entities or individuals. They also argued that the alleged act of tree cutting/ pruning/movement was based on a development permission granted on 13th February, 2025, which predated the conservatory order of 5th March, 2025.

Analysis and Determination

31. This contempt application has been taken out by the Petitioners/Applicants against the 1st-9th alleged contemnors accusing them of breaching the order of this court issued on 5th March, 2025. The Order in subject is as follows;

“That on an interim basis, I do grant prayer 2 of the motion on terms that Conservatory Orders be and is hereby issued restraining the 1st to 6th Respondent’s committee on Physical and Land Use Planning from considering and or processing any application for development permission on properties located in the areas stated on the face of prayer 2 pending hearing of this application inter-parties.”
32. The Applicants contend that in defiance of this Order, the 1st Respondent issued a Tree cutting / pruning/movement certificate dated 20th May, 2025 and authority to excavate and transport soil on Plot L.R No. 1870/x/92(Nairobi Block 4/570) situated in Westlands Subcounty to Dandora Dumpsite Nairobi. That further, the 6th alleged contemnor as the director and shareholder of the 9th alleged contemnor and the 7th and 8th alleged contemnors as its shareholders used the certificate and authority to cut trees and excavate on the area in subject.
33. The 6th -9th alleged Contemnors contend that the 5th March, 2025 court Order was not directed to them and that in any case, the Applicants have not filed an application to lift the veil of the 9th



- alleged contemnor which is a limited company. On the other hand, the 1st -5th Respondents/alleged Contemnor stated that they have not issued any approvals or permits after the court Order was issued.
34. That they (1st to 5th Respondents) only issued a tree clearance certificate which merely complied with condition (h) of the development permission earlier granted on 13th February 2025 prior to the conservatory Order. The 6th -9th alleged contemnors also stated that preparatory works such as tree clearing or demolition do not amount to "development" under the [Physical and Land Use Planning Act, 2019 \(PLUPA\)](#).
35. The issues for determination by this court are twofold;
- a. Whether or not the Conservatory order was directed against the 6th -9th alleged contemnors?
 - b. Whether or not the Applicants have proved the alleged contempt?
36. The conservatory orders of this court dated 5th March, 2025 were directed at the 1st - 5th Respondents in the Petition, restraining them from considering and or processing any application for development permission, (in terms of prayer number 2 of the Motion dated 3rd March 2025).
37. Prayer number 2 in the Notice of Motion dated 3rd March 2025 sought for conservatory orders restraining, stopping and halting the 1st, 2nd, 3rd, 4th, 5th and 6th Respondents or any of the 1st Respondent's committees on physical and land use planning from forthwith receiving, considering and processing any application for development permission on properties located in the Parklands Area of Nairobi City County.
38. The areas subject to the order were identified as falling within the scope and geographical boundaries of Parklands Road, Ojijo Road, Prof. Wangari Mathai Road, Part of Murang'a road, the edges of Mathare River past Limuru Road and to edges of Gitathuru River past Deep Sea Slum Area, Eldama Ravine Road, Ring Road Parklands to rejoin Parklands Road, pending hearing and determination of the application.
39. It is our considered view, and we therefore hold that, on the face of it, the order sought by the Applicants and the conservatory order issued by this court was directed towards the 1st - 5th Respondents or any of the 1st Respondent's committees on Physical and Land Use Planning, not the 6th - 9th alleged contemnors as indicated in the instant application. The alleged contemnors from the 6th to the 9th were also not parties to the proceedings at the time the order was made. Consequently, there would be no basis to condemn the 6th to 9th Respondents for any acts of disobedience.
40. The next issue to determine is whether the Applicants have met the contempt threshold against the 1st to 6th alleged contemnors of unlawful and deliberate disobedience of a court order, which is quasi-criminal and punishable law. Punishing for contempt is crucial for upholding the rule of law and maintaining the authority and dignity of courts at all times.
41. It has been established that a court will not condone deliberate disobedience of its orders, and will not shy away from its responsibility to deal firmly with proved contemnors. The Court of Appeal in the case of *Shimmers Plaza Limited vs. National Bank of Kenya Limited* (2012) eKLR held that 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. That 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 void.
42. In civil proceedings, invoking contempt has a criminal sanction which threatens personal liberty of the alleged contemnors. It is therefore essential to determine if the breach of the order was committed



‘deliberately and mala fide.’ In the case of *North Tetu Farmers Co. Ltd vs Joseph Nderitu Wanjohi* (2016) eKLR Justice Mativo (as he then was) stated that:

“Writing on proving the elements of civil contempt, learned authors of the book “Contempt in Modern New Zealand” have authoritatively stated as follows:

“There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases - (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.”

43. Also, in the case of *Samuel M. N. Mweru & Others vs National Land Commission & 2 Others* (2020) eKLR, which both parties have relied on, Justice Mativo (as he then was) while dealing with issues of contempt of Court observed as follows:

“The test for when disobedience of a civil order constitutes contempt has come to be stated as whether the breach was committed ‘deliberately and mala fide.’ [40] A deliberate disregard is not enough, since the non-complier may genuinely, albeit mistakenly, believe he/she is entitled to act in the way claimed to constitute the contempt. In such a case good faith avoids the infraction. [41] Even a refusal to comply that is objectively unreasonable may be bona fide (though unreasonableness could evidence lack of good faith). These requirements - that is the refusal to obey should be both wilful and mala fides, and that unreasonable non-compliance, provided it is bona fide, does not constitute contempt-accord with the broader definition of the crime, of which non-compliance with civil orders is a manifestation. They show that the offence is committed not by mere disregard of a court order, but by the deliberate and intentional violation of the court’s dignity, repute or authority that this evinces.[43] Honest belief that non-compliance is justified or proper is incompatible with that intent.

44. In the application before us, the alleged acts of contempt involve the issuance of the tree cutting/pruning/movement certificate dated 20th May 2025 signed by County Chief Officer of Food, Agriculture and Natural Resources and the issuance of Authority to excavate and transport soil dated 17th March 2025 and 14th May 2025 respectively. The latter two impugned permits are both signed by Geoffrey Mosiria, the County Chief Officer, Environment, Nairobi City County.

45. In their Replying Affidavit, the 1st to 5th alleged Contemnors argued that they only issued the tree cutting certificate in compliance with condition (h) of the development permit that was issued on 13th February 2025, before the Court order was issued. We note that there is also a condition (d) of the permit providing that all debris and excavated materials to be dumped on sites approved by the Nairobi City County Government. Condition (h) on the permit reads that;

“No trees shall be cut and/or uprooted without written permission from Nairobi City County Government Director of Environment.”

46. It is not in dispute that this court issued conservatory orders against the 1st to 6th Respondents in the Petition restraining them from processing any development permissions concerning the area in subject pending the hearing and determination of the application. This then raises the question of whether



the tree cutting certificate, Authority to excavate and transport soil, meet the threshold for contempt. Section 2 of PLUPA 2019 defines development as follows;

“development” means carrying out any works on land or making any material change in the use of any structures on the land.”

47. Guided by this definition, we are persuaded that tree cutting and excavation amounts to development since they are works on land, and are likely to cause material change. It is for this reason that the developer required and or obtained the impugned approval from the 1st Respondent.
48. We believe that the conditions for approving a development permit, such as the one relied on by the 1st to 5th alleged contemnors dated 13th February 2025, are separate and distinct requirements. If the permit dated 13th February 2025 was sufficient, then there would have been no basis for the developer, Grandpine Company Limited, to apply for additional permits for the cutting of trees or soil excavation on their said land.
49. Despite full knowledge of the conservatory order issued on 5th March 2025 by this Court, the 1st to 5th alleged contemnor went ahead to issue the tree cutting/ pruning/movement certificate dated 20th May 2025 signed by the County Chief Officer, Food, Agriculture and Natural Resources and also two Authorities to excavate and transport soil dated 17th March 2025 and 14th May 2025 respectively, both signed by Geoffrey Mosiria, the County Chief Officer, Environment, of the 1st Respondent.
50. It is our considered view that these actions are in breach of the conservatory order issued by this court. In the case of Republic vs Principal Secretary, Ministry of Defence Ex parte George Kariuki Waithaka [2019] KEHC 10383 (KLR), the court discussed extensively the consequences of non-compliance with court orders as follows;

“60. Courts therefore punish for contempt to insulate its processes for purposes of compliance so that the rule of law and administration of justice are not undermined. Without this power or where it is limited or diminished, the court is left helpless and its decisions would mean nothing. This ultimately erodes public confidence in the courts; endangers the rule of law, administration of justice and more importantly, development of society. That is why the court stated in *Carey v Laiken* [2015] SCC17 that;

“Contempt of court rests on the power of the court to uphold its dignity and process. The rule of law is directly dependent on the ability of the courts to enforce their process and maintain their dignity and respect”

61. It is therefore a fundamental rule of law that court orders be obeyed and where an individual is enjoined by an order of the court to do or to refrain from doing a particular act; he has a duty to carry out that order. The court has a duty to commit that individual for contempt of its orders where he deliberately fails to carry out such orders. (*Louis Ezekiel Hart v Chief George 1 Ezekiel Hart* (-SC 52/2983 2nd February 1990). And in *Hon. Martin Nyaga Wambora and Another v Justus Kariuki Mate & Another* [2014] eKLR, the Court stated the duty to obey the law by all individuals and institutions is cardinal in the maintenance of rule law and administration of justice.



51. We agree with the above decision. This court has the constitutional and statutory duty to punish any officer of the 1st Respondent who is found to be responsible for the acts of disobedience of its order.
52. Contempt of court is personal in nature, and liability can only be imposed on a person who is directly responsible for violating the order. In this case, the tree cutting certificate was signed by County Chief Officer, Food Agriculture and Natural Resources. The name of the signatory is not indicated. The Petitioners/Applicants had the burden to establish the name of the individual holding the office of CCO-Food Agriculture and Natural Resources.
53. In their pleadings, the court is unable to tell who amongst the alleged contemnors is the CCO- Food Agriculture and Natural Resources, and whose signature appears on the impugned permit dated 20th May 2025. This is a public office which the Petitioners, if diligent, would have known the name of the holder thereof, and specifically describe him/her in this contempt proceedings. Since the standard of proof is on a higher probability, this court cannot infer from the persons sued that either of them could be the holder of that office. To this extent, although we have found that the tree cutting certificate was issued in breach of the order, there is no proof of the identity of the person who occasioned the breach.
54. Concerning the two excavation authorities dated 17th March 2025 and 14th May 2025, they were both signed by the County Chief Officer, Environment, Nairobi City County, named as Geoffrey Mosiria sued as the 4th alleged contemnor. The affidavit sworn by Patrick Analo Akivaga on behalf Geoffrey Mosiria does not indicate that he was not aware of the conservatory order issued on 5th March 2025.
55. In light of our finding that the authority to excavate is independent of development approval dated 13th February 2025, we hold that the action of the 4th alleged contemnor was in breach of the order of this court. Therefore, the author of the impugned letters of authority, Geoffrey Mosiria, is found to be in contempt of the orders of this court.
56. There is no evidence linking the 1st, 2nd, 3rd and 5th alleged contemnors of the alleged acts of contempt. In the circumstances, we hold and find that they are not guilty of contempt and are accordingly discharged.
57. In conclusion, the application dated 23rd May, 2025 partially succeeds as follows;
 - a. Geoffrey Mosiria, the 4th Contemnor, is found to be in contempt of the orders of this court of 5th March, 2025.
 - b. Geoffrey Mosiria, the 4th Contemnor, shall avail himself on a date to be fixed by this court for mitigation and sentencing.
 - c. Each party to bear their own costs.

DATED, SIGNED AND DELIVERED IN NAIROBI THIS 14TH DAY OF OCTOBER, 2025.

O. A. ANGOTE

PRINCIPAL JUDGE

A. OMOLLO

JUDGE

C. G. MBOGO

JUDGE

