



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MILIMANI LAW COURTS
ENVIRONMENT & LAND COURT

ELC CASE NO. 426 OF 2016

MICHAEL MUTURI KARANJA.....PLAINTIFF

=VERSUS=

PAUL KIMANI NJOROGE.....DEFENANT

RULING

1. This is a ruling in respect of Notice Motion 16th May 2018. The application seeks the following orders:-

1) Spent.

2) That this Honourable Court does commit the defendant to jail for duration not exceeding six (6) months for disobeying court orders duly issued by this Honourable Court on the 21st April, 2017.

3) That in the alternative to prayer (2) this Honourable Court does grant the order for the attachment and sale of the defendant's properties to defray the damages occasioned by his disobedience of the court order duly issued by this Honourable Court on the 21st April,2017.

4) That further this Honourable Court does direct the Inspector of Police to immediately provide Police Officers to supervise and provide security as the Defendant/Respondent is evicted.

5) That the Respondent be condemned to pay the costs of this application and the execution of the order dated 21st April ,2017.

6) That this Honourable Court do award any other relief as this Court may deem just and equitable to grant under all the circumstances of this case.

2. The Respondent who was duly served with the application and hearing notice through his advocate on record neither filed grounds of opposition nor replying affidavit. The court had issued orders of eviction against the respondent. When the applicant went to evict the respondent, the respondent came to the suit property and menacingly chased away the persons who were to evict him.

3. The applicant now seeks that the respondent be found in contempt of court and be jailed for a period not excluding six months or in the alternative the respondent's properties be attached to defray costs incurred as a result of the respondent's disobedience of the court order.

4. I have gone through the applicant's application and the supporting affidavit. There is no doubt that an auctioneer in the company of police officers went to the disputed property to effect the court order. As the auctioneers had started executing the court orders which had duly been verified and confirmed to be authentic, the respondent who is the current Kiambu Senator came accompanied by goons and his security detail and stopped the execution of the court order.

5. In an application of this nature, the applicant is expected to show that there was a valid court order given; that the order was served upon the contemnor or that the contemnor had knowledge of the same and that the order was wilfully disobeyed by the contemnor. I have looked at the detailed affidavit in support of the application. The applicant has proved all the required ingredients before one can be found to be in

contempt of court. The Respondent was present when execution was going on and photographs of him were taken at the disputed property. I find that the respondent is in contempt of court orders and I find so. I therefore allow the application in terms of prayers 3, 4, and 5.

It is so ordered.

Dated, Signed and delivered at **Nairobi** on this **28th** day of **March 2019**.

E.O.OBAGA

JUDGE

In the presence of;-

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Court Assistant: Hilda

E.O.OBAGA

JUDGE