



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kariuki & 23 others v Settlement Fund Trustee & 2 others (Environment and Land Case 93 of 2013) [2025] KEELC 7579 (KLR) (4 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 7579 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NAKURU**  
**ENVIRONMENT AND LAND CASE 93 OF 2013**  
**MAO ODENY, J**  
**NOVEMBER 4, 2025**

**BETWEEN**

**JOHN MAINA KARIUKI & 23 OTHERS ..... PLAINTIFF**

**AND**

**SETTLEMENT FUND TRUSTEE ..... 1<sup>ST</sup> DEFENDANT**

**NGARI MAHIHU ..... 2<sup>ND</sup> DEFENDANT**

**ALFRED JOMBA ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. This ruling is in respect of the 2<sup>nd</sup> Defendant/Applicant's Notice of Motion application dated 8<sup>th</sup> April, 2025, seeking the following orders:
  1. Spent
  2. Spent
  3. That the Directors of the 1<sup>st</sup> Defendant/Respondent entity do appear before this Honourable Court in person to show cause why they should not be cited for contempt of court for willfully, deliberately, and intentionally refusing to obey the status quo orders of this Honourable Court issued on 10<sup>th</sup> December, 2013.
  4. That this Honourable Court be pleased to find and hold that the Directors of the 1<sup>st</sup> Defendant/Respondent entity are in contempt and have disobeyed the status quo orders of this Honourable Court issued on 10<sup>th</sup> December, 2013.
  5. That this Honourable Court does order the immediate revocation and cancellation of all the titles illegally and fraudulently acquired by individuals over suit property Plot No 142 ADC



Oljorrai Phase II for having been acquired in contravention of the letter and spirit of the status quo orders of this Honourable Court issued on 10<sup>th</sup> December, 2013.

6. That this Honourable Court be pleased to direct the Officer Commanding Police Division Nakuru Area to assist in implementation of the orders this Honourable Court is pleased to grant. (sic)
7. That costs of this application be borne by the 1<sup>st</sup> Defendant/Respondent.
2. The application is supported by the annexed affidavit of Ngari Mahihu, the 2<sup>nd</sup> Defendant/Applicant sworn on 8<sup>th</sup> April, 2025, where he deponed that the Honourable court issued orders on 10<sup>th</sup> December, 2013, which the 1<sup>st</sup> Defendant has breached by issuing a discharge over the suit land. He further deponed that the breach has allowed individuals including David Morani Keros and Selina Chepkemoi Sengei to acquire title documents fraudulently for the suit parcels to the detriment of his rights and interests, and urged the court to grant the prayers sought.
3. The Applicant also filed a Supplementary Affidavit sworn on 7<sup>th</sup> August, 2025, where he deponed that an investigation was conducted over the suit land concerning his claim and a report on the same was compiled.

### **2<sup>nd</sup> Defendant/Applicant's Submissions**

4. Mr. Situma, counsel for the 2<sup>nd</sup> Defendant/Applicant, filed submissions dated 7<sup>th</sup> August, 2025, and identified the following issues for determination:
  - a. Whether the 1<sup>st</sup> Defendant/Respondent's Directors should be cited for contempt of the status quo orders issued on 10<sup>th</sup> December, 2013?
  - b. Who should bear the costs of the Application?
5. On the first issue, counsel submitted that the allocation of land, issuance of titles by the 1<sup>st</sup> Defendant/Respondent was done in breach and violation of the status quo orders issued on 10<sup>th</sup> December, 2013. Counsel relied on Section 5 (1) of the *Judicature Act*, Section 29 of the *Environment and Land Court Act* and the cases of North Tetu Farmers Co. Ltd vs Joseph Nderitu Wanjohi (2016) eKLR and Shimmers Plaza Limited vs National Bank of Kenya Limited [2015] eKLR.
6. On the second issue, counsel submitted that the 2<sup>nd</sup> Defendant/Applicant is entitled to costs and relied on Section 27 of the *Civil Procedure Act* and the cases of DGM vs EWG [2021] eKLR and Nation Media Group & another vs Awale Transporters Limited [2022] eKLR.

### **Analysis and Determination**

7. The issue for determination is whether the Directors of the 1<sup>st</sup> Defendant/Respondent should be cited for contempt of court. The background to this matter is that the 1<sup>st</sup> 8<sup>th</sup> 10<sup>th</sup> & 23<sup>rd</sup> Plaintiffs had filed a Notice of withdrawal of suit dated 5<sup>th</sup> October 2023, which was allowed hence they are no longer participating in the case. Counsel have also been negotiating a settlement to enable them record a consent as there are only 5 remaining Plaintiffs.
8. Counsel for the 2<sup>nd</sup> Defendant/Applicant submitted that the court issued orders on 10<sup>th</sup> December, 2013, which the 1<sup>st</sup> Defendant has breached, hence the application for contempt.



9. In the Court of Appeal case of Micheal Sistu Mwaura Kamau v Director of Public Prosecutions & 4 others [2018] eKLR the court held as follows:

“It is trite that to commit a person for contempt of court, the court must be satisfied that he has wilfully and deliberately disobeyed a court order that he was aware of...secondly, as this Court emphasized in Jihan Freighters Ltd v Hardware & General Stores Ltd and in AB & another v R B [2016] eKLR, to sustain committal for contempt of court, the order of the court that is alleged to have been deliberately disobeyed must be clear and precise so as to leave no doubt as to what a party was supposed to do or to refrain from doing. Lastly, the standard of proof in committal proceedings is higher than proof on a balance of probabilities, though not as high as proof beyond reasonable doubt.”

10. The Applicant, in support of his case, annexed copies of certificates of official searches to the suit properties, which are in the names of David Morani Keros and Selina Chekemoi Sengei. The court further notes that the Applicant in a Supplementary Affidavit sworn on 7<sup>th</sup> August, 2025, has annexed an investigation report by one Manuel S. Markey which revealed that vide a letter dated 13<sup>th</sup> July 2024, a group of five individuals namely Moran Koros, Francis Muchiri, Abraham Kiprotich kangoswo, Salina Chepkemoi Segei and John Kibaki Njuguna, alleging to be Kaptures Squatters wrote to the Principal Secretary Ministry of Land Housing & Public Works, Ardhi House Nairobi to the Attention of the Director of Land Adjudication and Settlement seeking land allocation.
11. That subsequently, the said individuals were allocated some pieces of land and titles issued in their favour in November 2024. That the allocation and the issuance of the titles were in contravention of an existing status quo order of the court issued on 10<sup>th</sup> December 2013.
12. Contempt is conduct that impairs the fair and efficient administration of justice. Courts punish for contempt to uphold their dignity and authority and to ensure compliance with directions of the court, observance and respect of due process of law, preserve an effective and impartial system of justice, and maintain public confidence in the administration of justice by courts.
13. In the case of Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & another [2005] KLR 828, Ibrahim, J. (as he then was), underscored the importance of obeying court orders, stating:
1. 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. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against whom an order is made by court of competent jurisdiction, to obey it unless and until the order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by the order believes it to be irregular or void.
14. Similarly in the case of Carey v Laiken, 2015 SCC 17 (16<sup>th</sup> April 2015), the Court expounded on the three elements of civil contempt of court which must be established to the satisfaction of the court, thus:
- i) The order alleged to have been breached “must state clearly and unequivocally what should and should not be done.” This ensures that a party will not be found in contempt where an order is unclear. An order may be found to be unclear if, for example, it is missing an essential detail about where, when or to whom it applies; if it incorporates overly broad language; or if external circumstances have obscured its meaning.



- ii) The party alleged to have breached the order must have had actual knowledge of it. It may be possible to infer knowledge in the circumstances, or an alleged contemnor may attract liability on the basis of the willful blindness doctrine.
  - iii) The party alleged to be in breach must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels.”
15. An Applicant must demonstrate that the respondent had knowledge of the order and has willfully disobeyed the court order.
16. This court finds that the Applicant has not proved that there was willful disobedience of an order of status quo dated 10<sup>th</sup> December 2013. Whom in particular was the order directed to. The Notice of Motion application dated 8<sup>th</sup> April, 2025, is hereby dismissed with no orders as to costs.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 4<sup>TH</sup> DAY OF NOVEMBER 2025.**

**M. A. ODENY**

**JUDGE**

