



Gakumbi v Africare Limited & 2 others (Employment and Labour Relations Cause 180 of 2020) [2025] KEELRC 3296 (KLR) (20 November 2025) (Ruling)

Neutral citation: [2025] KEELRC 3296 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 180 OF 2020
MN NDUMA, J
NOVEMBER 20, 2025**

BETWEEN

ALFRED MURIITHI GAKUMBI CLAIMANT

AND

AFRICARE LIMITED 1ST RESPONDENT

FIRST CHOICE AUCTIONEERS 2ND RESPONDENT

KEN KARAGO 3RD RESPONDENT

RULING

1. The Claimant/Applicant filed notice of motion application dated 18/8/2025 seeking an order in the following terms: -
 1. Spent
 2. The Honourable Court be pleased to cite the Respondents for contempt of court for willfully and deliberately disobeying the court order issued on 13th March, 2025, 30TH July 2025 by Hon. J. Nduma Nderi.
 3. The Honourable Court be pleased to commit the Respondents to civil jail for a term not exceeding six (6) months or impose such other sanctions as it deems just and fit in the circumstances.
2. The application is supported by grounds '1' to '7' set out on the face of the application the gravamen of which is that the court issued clear and binding orders on 13th March 2025, 3rd July 2025 and 30th July 2025 directing the return of the Applicant's ambulance registration number KCK 290H and taxation of auctioneer's charges.



3. The Respondents were duly served with the said orders and have actual knowledge of the same, having been represented by counsel when the orders were issued.
4. That the Respondents have willfully and deliberately failed or refused to comply with the orders.
5. That the Respondents are guilty of willful contempt of court and by so doing are causing gross prejudice to the Applicant.
6. That this application be granted
7. The Respondents have not filed any response to this application despite service.
8. The Respondents were represented in court on the three occasions the court orders were issued and the court is satisfied that the Respondents were not only served with the court orders but have full knowledge and understanding of the court orders that directed the Respondents to release the Ambulance Registration No. KCK 290H which belongs to the Applicant.
9. In the case of Makokha versus Mwananchi Credit Ltd and another (Misc. Application E152 of 2024) [2025] KEHC 7919 (KLR) the court held: -

“The law is very clear. A party to whom a court order is directed to by a competent court has no choice other than to first comply with the order given, if to the party the order is irregular or before taking steps, if not sure of the import of the court order the party is supposed to rush back to court and explain its difficulties complying with the particular court order but not to disregard the order.”
10. The court finds that on 30th July 2025, the court adopted a consent order entered into by the parties and willful participation of the 1st Respondent’s counsel. That the consent order was stated by the Court of Appeal in Flora N. Wasike versus Distino Wambulo [1986] eKLR, carrying the binding force of both a judgment and a contract. The court stated: - a consent order has contractual effect and can only be set aside on grounds which would justify the setting aside of a contract.”
11. The Court followed the decision of Windam J. as he then was and as approved by the Court of Appeal for East Africa, in Hirani versus Kabsen [1052] 19 EACA 13 as follows: -

“The mode of paying the debt then is part of the consent judgment. That being so, the court cannot interfere with it except in such circumstances as would afford good grounds for varying or rescinding a contract between the parties.”
12. The court finds that the Applicant has satisfied the threshold for holding that the Respondents are guilty of contempt of court having intentionally disobeyed orders they have knowledge of and also participated in crafting one of the said orders as stated above.
13. In Econet Wireless Kenya Ltd versus Ministry for information and Communication of Kenya and another [2005] eKLR, Ringera J. stated

“It is a fundamental principle of the rule of law that court orders must be obeyed. The importance of the principle has been stated in many decisions in our courts and in particular the Court of Appeal.”
14. Accordingly, the court finds the Respondents are guilty of willful disobedience of the court order set out in the application and allows the application and issues the following orders: -



- a. The 1st, 2nd and 3rd Respondents are guilty of contempt of court for disobeying court orders issued on 13th March 2025, 3rd July 2025 and 30th July 2025.
- b. The Respondents are sentenced to civil jail for a term not exceeding three (3) months until they release the Ambulance Registration No. KCK 290H without any conditions at all.
- c. The Respondents are not to benefit from their illegal conduct and so, the court directs that no auctioneer and storage charges are payable in respect of the entire period the Respondents held the said motor vehicle unlawfully. Accordingly, any taxation of Auctioneer costs is to exclude the period 13th March 2025 to date.
- d. The Respondents to meet the costs of the application.

DATED AT NAIROBI THIS 20TH DAY OF NOVEMBER 2025.

MATHEWS NDUMA

JUDGE

Appearance:

M/s. Gikera & Vadgama Advocates for the Claimant/ Applicant

Githiomi Mungai Advocates LLP for 1st, 2nd and 3rd Respondents

Mr. Kemboi – Court Assistant

