



**Republic v Commissioner for Cooperative Development & 13 others; Ndwiga & 12 others (Ex parte Applicants) (Judicial Review Miscellaneous Application E162 of 2024) [2025] KEHC 18024 (KLR) (Judicial Review) (3 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18024 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E162 OF 2024  
RE ABURILI, J  
DECEMBER 3, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

- COMMISSIONER FOR COOPERATIVE DEVELOPMENT ... 1<sup>ST</sup> RESPONDENT**
- NENO SACCO ..... 2<sup>ND</sup> RESPONDENT**
- QWETU SACCO ..... 3<sup>RD</sup> RESPONDENT**
- SOLUTION SACCO ..... 4<sup>TH</sup> RESPONDENT**
- BUTALI SACCO ..... 5<sup>TH</sup> RESPONDENT**
- IMARISHA SACCO ..... 6<sup>TH</sup> RESPONDENT**
- MAKTABA SACCO ..... 7<sup>TH</sup> RESPONDENT**
- APSTAR DT SACCO LTD ..... 8<sup>TH</sup> RESPONDENT**
- INVEST AND GROW SACCO ..... 9<sup>TH</sup> RESPONDENT**
- NEWFORTS SACCO ..... 10<sup>TH</sup> RESPONDENT**
- LOMPASAGO SACCO ..... 11<sup>TH</sup> RESPONDENT**
- GUSII MWALIMU SACCO ..... 12<sup>TH</sup> RESPONDENT**
- COSMOPOLITAN SACCO ..... 13<sup>TH</sup> RESPONDENT**
- SHOPPERS SACCO ..... 14<sup>TH</sup> RESPONDENT**

**AND**



PETER MANGA NDWIGA .....	EX PARTE APPLICANT
ALFRED MWADIME MLOLWA .....	EX PARTE APPLICANT
TARTISIO IRUKI ITUURU .....	EX PARTE APPLICANT
MALOVA HESBON NYIKURI .....	EX PARTE APPLICANT
LANGAT KIMUTAI DAVID .....	EX PARTE APPLICANT
JOHN KIPKEMOI SIGEI .....	EX PARTE APPLICANT
ANDREW AYARAH OKWACH .....	EX PARTE APPLICANT
DAVID KALACHI MOYIA .....	EX PARTE APPLICANT
GEORGE MAGUTU MWANGI .....	EX PARTE APPLICANT
BERNARD NJUNJIRI MAINA .....	EX PARTE APPLICANT
DAVID OGEA NYANGAU .....	EX PARTE APPLICANT
JOHN M NJUGUNAH .....	EX PARTE APPLICANT
WILFRED KEMBERO AIMA .....	EX PARTE APPLICANT

## RULING

1. This ruling determines the application dated 12<sup>th</sup> August 2025 brought under Articles 10, 159 of *the Constitution* of Kenya, 2010, Section 5(1) of the *Judicature Act*, Sections 1A, 1B, 3A, of the *Civil Procedure Act*, Rule 19 of Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 and Part 81.1, Rule 81.1,2,3, 4, 5 6 & 7 of the English Civil Procedure Rules (Amendment No. 3) Rules, 2020,
2. The application seeks the following orders:
  - a. This Honourable Court be pleased to grant leave to the Ex-Parte Applicants to institute contempt of court proceedings against the Chairperson of the 4<sup>th</sup> Respondent, Francis Muriithi and Murangiri Alfred, the Director of Co-operatives Meru County, for deliberate disobedience of the orders of this Court issued on 24<sup>th</sup> June 2025.
  - b. That the leave so granted does operate as a stay of any further steps by the 4<sup>th</sup> Respondent, its agents or officers, including conducting elections to replace the 3<sup>rd</sup> Ex-Parte Applicant or acting in a manner inconsistent with the said judgment and decree.
  - c. That Summons do issue to Francis Muriithi, the Chairperson of the 4<sup>th</sup> Respondent and Murangiri Alfred, the Director of Co-operatives Meru County, to personally appear before this Honourable Court and show cause why they should not be found guilty of contempt of court for deliberate disobedience of the orders issued on 24<sup>th</sup> June 2025.
  - d. That this Honourable Court be pleased to declare that Francis Muriithi and Murangiri Alfred, by virtue of their contemptuous actions, are unfit to hold any office within the 4<sup>th</sup> Respondent or office of the Director of Co-operatives Meru County to exercise any public authority, whether as officer, agent, or contractor.



- e. That warrants of arrest do issue, to be executed by the Officer Commanding Station Meru Police Station, or any other officer as directed, for the arrest of Francis Muriithi and Murangiri Alfred, for the purposes of being committed to civil jail for disobedience of the lawful orders of this Court issued on 24<sup>th</sup> June 2025.
  - f. That until such time as the contempt is purged through the restoration of the 3<sup>rd</sup> Ex-Parte Applicant to his rightful position with all attendant privileges and benefits, the 4<sup>th</sup> Respondent, Francis Muriithi and Murangiri Alfred be denied audience before this Honourable Court, either in person or through legal representation.
  - g. That costs of this application be assessed on a punitive indemnity basis, and the same be personally borne by Francis Muriithi and Murangiri Alfred, and ordered to be paid forthwith, or recovered by direct deductions from the salary, earnings or benefits until full satisfaction.
3. The application is supported by the affidavit sworn on 12<sup>th</sup> August 2025 by Tartisio Iruki Ituuri the 3<sup>rd</sup> ex parte applicant herein.
  4. The 3<sup>rd</sup> ex parte applicant's case is that he served as a Board member of the 4<sup>th</sup> Respondent Cooperative Society from July 2012 till May 2020 when he was elected by the Board to serve in the position of the vice chairperson. According to him, this elevation was upon his rendering exemplary service to the Sacco and active contribution to the tremendous growth of the asset base of the 4<sup>th</sup> respondent Cooperative SACCO Society(the Society).
  5. He states that this court rendered judgment on 24<sup>th</sup> June 2025, wherein the Court quashed the unprocedural removal of the 3<sup>rd</sup> ex parte applicant from the position as a Board Member of the 4<sup>th</sup> respondent SACCO Society and a decree was subsequently extracted and duly served upon the 4<sup>th</sup> respondent on 4<sup>th</sup> July 2025. This is said to have placed the respondents under a clear legal and constitutional obligation to comply with the orders of this Court.
  6. That despite being personally served and having full knowledge of the said orders, the 4<sup>th</sup> respondent through its Chairperson, Mr. Francis Muriithi and a Mr. Murangiri Alfred, the Director of Co-operatives Meru County, have deliberately and willfully refused to comply, in utter contempt of this Court.
  7. It is the 3<sup>rd</sup> ex parte applicant's further case that by a letter dated 24<sup>th</sup> July 2025, addressed to the 3<sup>rd</sup> ex parte applicant, Mr. Francis Muriithi informed him that his membership on the Board had ceased, relying on Minute No. MIN 13/AGM/2025 of a resolution allegedly passed during the 4<sup>th</sup> respondent's Annual General Meeting held on 25<sup>th</sup> January 2025. The letter, according to Mr. Iruki, purported to declare his position vacant and outlined preparations for a fresh election, despite the existence of a valid and binding court judgment that quashed his removal.
  8. The 3<sup>rd</sup> ex parte applicant further states that during the said AGM of 25<sup>th</sup> January 2025, his removal was not part of the agenda and that the reliance on that meeting to justify his removal is, therefore, a blatant misrepresentation and abuse of process.
  9. According to the 3<sup>rd</sup> ex parte applicant, it is material that the 4<sup>th</sup> respondent had previously taken the position that this applicant's removal was as a result of a directive from the 1<sup>st</sup> respondent, and that the current narrative alleging a resolution from the AGM is not only inconsistent but smacks of an afterthought and deliberate mischief.
  10. The 3<sup>rd</sup> ex parte applicant further avers that consequently, by a letter dated 24<sup>th</sup> July 2025, Mr. Murangiri Alfred, the Director of Co-operatives, Meru County, notified the 4<sup>th</sup> respondent's members



of an intended vetting exercise to be held on 8<sup>th</sup> August 2025, requiring submission of nomination applications by 7<sup>th</sup> August 2025 for purposes of replacing the applicant herein as a member of the Board of the 4<sup>th</sup> respondent. That on 8<sup>th</sup> August 2025, the vetting exercise proceeded as scheduled and a by-election was set for 23<sup>rd</sup> August 2025, all in flagrant violation of a live judgment and court decree issued by this Court.

11. It is the 3<sup>rd</sup> ex parte applicant's further case that the conduct of Mr. Francis Muriithi, the 4<sup>th</sup> respondent's chairperson and Mr. Murangiri Alfred, the Director of Co-operatives, Meru County, in declaring the seat vacant, vetting candidates and preparing for elections, despite the court's clear decision, is not only unlawful but amounts to a gross affront to judicial authority and is therefore contemptuous.
12. The 3<sup>rd</sup> ex parte applicant contends that both the 1<sup>st</sup> and 2<sup>nd</sup> alleged contemnors have since conspired, jointly and severally, to deliberately undermine the authority of this Court by disregarding its express orders and engaging in activities that were expressly prohibited. That their actions in orchestrating, facilitating and proceeding with electoral processes to replace him despite being fully aware of the subsisting judgment and decree demonstrate willful disobedience.
13. The 3<sup>rd</sup> ex parte applicant further contends that these actions of the alleged contemnors directly undermine the authority and dignity of this Court and risk rendering its judgment nugatory, thereby eroding public confidence in the judicial process.
14. The ex parte applicants also filed a further affidavit in response to the 4<sup>th</sup> respondent's replying affidavit of 12<sup>th</sup> September 2025. The further affidavit is sworn on 3<sup>rd</sup> October 2025 by Eliud Kiriinya who introduces himself as a member of the 4<sup>th</sup> respondent in good standing and of membership No. 001000260660.
15. In the further affidavit, Mr. Kiriinya deposes that he was present during the Annual General Meeting held on 25<sup>th</sup> January 2025 at Gikumene Primary School in Meru County. He states that contrary to the averments in paragraphs 3 to 6 of the 4<sup>th</sup> respondent's replying affidavit, no agenda item relating to the removal of Mr. Tartisio Iruki Ituuuru, the 3<sup>rd</sup> ex parte applicant, was tabled, discussed or resolved at the AGM held on 25<sup>th</sup> January 2025.
16. Mr. Kiriinya further states that there was no motion, oral or written nor an amendment to the agenda that suggested or proposed the removal of any board member, let alone the 3<sup>rd</sup> ex parte applicant.
17. He further deposes that Section 27(1) of the [Co-operative Societies Act](#) requires that all matters to be deliberated at a general meeting be adequately and clearly communicated in advance to members. That no such notice was issued to members regarding the removal of the 3<sup>rd</sup> ex parte applicant.
18. It was deposed that the principle of legitimate expectation, under Article 47 of [the Constitution](#), was thus violated, as neither the members nor the 3<sup>rd</sup> ex parte applicant had reason to anticipate such a drastic and adverse resolution being made without due notice.
19. The deponent further disputes the replying affidavit's claim that the AGM passed a resolution (Minute 12/AGM/2025) removing the 3<sup>rd</sup> ex parte applicant, asserting that no such deliberation or vote occurred; and that if the resolution exists, the deponent states that it must have been fraudulently inserted or fabricated. He deposes that the alleged removal violated the Sacco's by-laws, the [Co-operative Societies Act](#) and constitutional requirements of fairness and transparency. The referenced consultative meeting of 5<sup>th</sup> February 2025 is said to be irrelevant because no valid AGM resolution existed to begin with and that therefore, a later meeting cannot validate an unlawful process.



20. The deponent also states that the removal was in fact aligned with the 1<sup>st</sup> Respondent's quashed directive of 17<sup>th</sup> December 2024, and that the Directorate of Cooperatives specifically Mr. Murangiri Alfred actively facilitated the removal and subsequent irregular vetting and elections. The notice issued on 24<sup>th</sup> July 2025 calling for vetting is said to have falsely assumed a vacancy and to have improperly usurped the Sacco's internal dispute resolution mechanisms. These actions are described as unlawful, lacking stakeholder consultation and contrary to Section 4 of the *Fair Administrative Action Act* and Article 10 of *the Constitution*.
21. It is also the deponent's contention that the replacement of the 3<sup>rd</sup> ex parte applicant continued in disregard of the ongoing court process and only stopped due to interim court orders of 22<sup>nd</sup> August 2025. They assert that this conduct amounts to administrative overreach and potentially contempt of court. They also note that the 4<sup>th</sup> respondent's replying affidavit fails to attach essential evidence, such as certified AGM minutes and the signed attendance register, making the replying affidavit unreliable and lacking probative value.
22. The deponent concludes that the 3<sup>rd</sup> ex parte applicant has shown a prima facie case of procedural and substantive unlawfulness in his removal and urges this Court to protect both his rights guaranteed under Article 47 of *the Constitution* and the integrity of Sacco governance from irregular executive interference.

#### **The 1<sup>st</sup> Alleged Contemnor's replying affidavit**

23. The 1<sup>st</sup> alleged contemnor filed a replying affidavit sworn on 15<sup>th</sup> September 2025 by Francis Murithi Rimberia who introduces himself as the Chairman of the Board of Directors for Solution Sacco Society Limited, the 4<sup>th</sup> respondent herein.
24. According to Mr. Murithi, on or about 17<sup>th</sup> December 2024, the 1<sup>st</sup> respondent herein wrote to various Sacco Societies, including the 4<sup>th</sup> respondent, directing that the ex parte applicants herein, including the 3<sup>rd</sup> ex parte applicant be barred from holding office as officials in any of the Primary Saccos, including the 4<sup>th</sup> respondent Society herein.
25. That the proceedings herein were then, immediately thereafter, instituted by the ex parte applicants seeking for judicial review orders of certiorari quashing the said letter written by the 1<sup>st</sup> respondent dated 17<sup>th</sup> December 2024. The court is said to have granted leave to the ex parte applicants and directed that the said leave do operate as a stay of implementation of the letter dated 17<sup>th</sup> December 2024 pending determination of the substantive motion.
26. The 4<sup>th</sup> respondent according to the 1<sup>st</sup> alleged contemnor, is said to have complied with the said order of the court and the 3<sup>rd</sup> ex parte applicant continued in his position on the Board of the 4<sup>th</sup> respondent without interference. That the court in its judgment delivered on 24<sup>th</sup> June 2025 quashed the 1<sup>st</sup> respondent's letter dated 17<sup>th</sup> December 2024, and according to the 1<sup>st</sup> alleged contemnor, the effect of the court's decision is that the directives communicated by the 1<sup>st</sup> respondent through the said letter could not and cannot be implemented or pursued at all.
27. That the 4<sup>th</sup> respondent's Board accepted the court's verdict in good faith and no Board member, including him as the Chairman, is pursuing implementation of the directive of the 1<sup>st</sup> respondent as erroneously being alleged by 3<sup>rd</sup> ex parte applicant in his present application dated 12<sup>th</sup> August 2025 or at all.



28. It is deposed that the 3<sup>rd</sup> ex parte applicant has, in the contents of his supporting affidavit sworn on 12<sup>th</sup> August 2025, concealed vital information of material nature to these proceedings from this Court with the sole intention of misleading the Court.
29. The removal from being a member and the vice-chairman of the Board of the 4<sup>th</sup> respondent according to the 1<sup>st</sup> alleged contemnor, is by a resolution of the members of the 4<sup>th</sup> respondent made during a legally constituted Annual General meeting held on 25<sup>th</sup> January 2025 as per the 4<sup>th</sup> respondent's constitution and by-laws.
30. Further deposition is that the 3<sup>rd</sup> ex parte applicant herein attended the said Annual General Meeting and participated in all the business and activities conducted at the said Annual General meeting, including the Motion for his removal from being a member of the Board and from being the vice chairman of the Board of the 4<sup>th</sup> respondent SACCO Society.
31. The 1<sup>st</sup> alleged contemnor contends that whereas it is true that the removal of the 3<sup>rd</sup> ex parte applicant from being the vice-chairman of the Board of the 4<sup>th</sup> respondent was not part of the Agenda contained in the notice convening the said Annual General meeting, a motion was moved by the members, immediately after the Notice had been read to the members, demanding that the issue be added to the Agenda for the day and so it was added and thereafter deliberated upon in the said AGM, and in the presence of the 3<sup>rd</sup> ex parte applicant.
32. That after the resolution was passed by the members during the Annual General meeting held on 25<sup>th</sup> January 2025, the 4<sup>th</sup> respondent's Board of Directors, including the 3<sup>rd</sup> ex parte applicant herein held a consultative meeting on 5<sup>th</sup> February 2025 at which meeting the said resolution was also deliberated upon and a unanimous decision was made by the Board, to implement the said resolution.
33. The decision according to the 1<sup>st</sup> alleged contemnor, was communicated to the 3<sup>rd</sup> ex parte applicant who was present in the Board meeting and he accepted the same without raising any objection to its implementation. That the 3<sup>rd</sup> ex parte applicant therefore accused of material non-disclosure for withholding vital information of material nature from this Court.
34. The 1<sup>st</sup> alleged contemnor also deposes that the court's earlier judgment only quashed the 1<sup>st</sup> respondent's directive and did not prevent Saccos, including the 4<sup>th</sup> respondent, from lawfully reorganizing their leadership under their by-laws.
35. It is contended that the 3<sup>rd</sup> ex parte applicant never appealed or challenged the AGM resolution removing him as a member and vice-chair, and that neither did he challenge the Board's subsequent implementation of that ADM decision. Further, that since the resolution was passed by members at the AGM, this Court lacks jurisdiction to interfere with its implementation.
36. It is also the 1<sup>st</sup> alleged contemnor's case that this Court does not have the requisite legal mandate and/or jurisdiction to arbitrate on disputes involving a Board member and the Sacco or any dispute in relation to leadership positions in any Primary Sacco and that as such, this e Court has no jurisdiction to hear and determine the 3<sup>rd</sup> ex parte applicant's application dated 12<sup>th</sup> August 2025.
37. Further, that if in any event the 3<sup>rd</sup> ex parte applicant has any issue or complaint in regard to the resolution made by the members at the Annual General meeting, he can only challenge the same in the manner prescribed in *the constitution* and bylaws of the 4<sup>th</sup> respondent SACCO Society and if not satisfied, he should then institute proceedings at the Co-operatives Tribunal and not before this Court.



### **The 2<sup>nd</sup> Alleged Contemnor's Replying Affidavit**

38. The 2<sup>nd</sup> alleged contemnor filed a replying affidavit sworn on 18<sup>th</sup> September 2025 by Mr. Murangiri Alfred who introduces himself as the the Sub-County Cooperative Officer in the County Government of Meru.
39. In his affidavit, Mr. Murangiri depones that the County Government of Meru, through its Directorate of Cooperatives, is mandated under Section 49B (2) of the Meru County Cooperative Societies (Amendment) Act, 2025 to oversee and facilitate vetting of applicants for co-operative societies' elective positions within the County. That this is a statutory oversight role and not an interference with member sovereignty.
40. He states that the removal of the 3<sup>rd</sup> ex parte applicant, Mr. Tartisio Iruki Ituuru, from the Board of Solution Sacco Society was a sovereign decision of members at the duly convened Annual General Meeting held on 25<sup>th</sup> January 2025 and that the resolution is captured under Minute 13/AGM/2025.
41. Further, that following the AGM resolution, the Board of Directors of Solution Sacco Society held a consultative meeting on 5<sup>th</sup> February 2025, where the 3<sup>rd</sup> ex parte applicant was informed of the members' decision and that from that date, he ceased attending Board meetings.
42. It is deposed that the Meru County Directorate of Cooperatives subsequently convened vetting proceedings in July and August 2025 to facilitate filling of the vacancy, consistent with the law and the Sacco by-laws and that notices were duly issued under the deponent's hand on behalf of the Director of Cooperatives. However, that on 22<sup>nd</sup> August 2025, the office of the Director of Cooperatives was served with a court order halting the scheduled Board elections of 23<sup>rd</sup> August 2025, and that upon consultations with Solution Sacco Society, the elections were cancelled forthwith in compliance with the Court order.
43. The 2<sup>nd</sup> alleged contemnor further deposes that the County Government of Meru has at all times complied with the orders of this Court and that it has not in any way disobeyed, disregarded or acted in contempt of the Judgment of 24<sup>th</sup> June 2025. Mr. Murangiri states that the judgment of 24<sup>th</sup> June 2025 expressly limited itself to quashing the 1<sup>st</sup> respondent's directive dated 17<sup>th</sup> December 2024 and clarifies that nothing therein reinstated the ex parte applicants to office. According to him, the SACCO Society leadership positions are elective and subject to member control.
44. He contends that the ex parte applicants' attempt to link the County Government of Meru's statutory oversight role to the Commissioner's quashed directive is misplaced and misleading, and that the County did not and has not implemented or enforced the said directive.
45. According to Mr. Murangiri, disputes concerning election or removal of officials of a cooperative society fall under the jurisdiction of the Cooperative Tribunal, and not the High Court exercising judicial review jurisdiction. He contends that the allegations that he is in contempt of Court or that he or that the County Government of Meru unlawfully interfered with the court process are without merit. He urged this Court to dismiss the application for contempt against him with costs.

### **The 4<sup>th</sup> Respondent's Replying Affidavit**

46. The 4<sup>th</sup> respondent filed a replying affidavit sworn on 12<sup>th</sup> September 2025 by Ebuthania Esther Javani who introduces herself as the Chief Executive Officer of the 4<sup>th</sup> respondent Cooperative Society. They also filed a supplementary affidavit sworn on 30<sup>th</sup> October 2025 by Nicholas Nteere who introduces himself as member of the 4<sup>th</sup> respondent Society.



47. I note that in both affidavits, the 4<sup>th</sup> respondent refers to the application dated 18<sup>th</sup> August 2025 and not the application subject of contempt proceedings, which is dated 12<sup>th</sup> August 2025. However, during oral highlights made in Court on 6<sup>th</sup> November 2025, Mr. Mbabu counsel for the 4<sup>th</sup> respondent intimated that he would be relying on the replying affidavit and supplementary affidavit although he did not give dates when the two affidavits were sworn.
48. From the Case Tracking System, following the application dated 12<sup>th</sup> August 2025, the firm of Mbabu M’Inoti Advocates LLP only filed the replying affidavit sworn on 12<sup>th</sup> September 2025 and the supplementary affidavit sworn on 30<sup>th</sup> October 2025. It is therefore reasonable for this court to treat these two affidavits as the ones counsel referenced during the oral highlights made before the court. Accordingly, I will proceed to summarise the contents of the two respective affidavits herein below.
49. The 4<sup>th</sup> Respondent’s case is that the 3<sup>rd</sup> ex parte applicant was duly and procedurally removed from his position as a serving board member of the 4<sup>th</sup> respondent during the Annual General Meeting (AGM) held on 25<sup>th</sup> January 2025 at Gikumene Primary School and that this removal was in accordance with the law.
50. According to the 4<sup>th</sup> respondent, the removal of the 3<sup>rd</sup> ex parte applicant at the aforesaid AGM was a sovereign decision of its members, arising from deliberations on his conduct as a board member, which conduct included incitement of members during the Annual General Meeting, with the intention of disrupting proceedings, as well as the 4<sup>th</sup> respondent’s dissatisfaction with the 3<sup>rd</sup> ex parte applicant’s role in matters leading to significant financial loss by the 4<sup>th</sup> respondent Cooperative Society.
51. Further contention by the 4<sup>th</sup> Respondent is that the decision for removal of the 3<sup>rd</sup> ex parte applicant was made independently and had no connection to the 1<sup>st</sup> respondent’s directive dated 17<sup>th</sup> December 2024, which was the subject of the quashed decision in the judgment of this Court rendered on dated 24<sup>th</sup> June 2025.
52. The 4<sup>th</sup> respondent further contends that the judgment dated 24<sup>th</sup> June 2025 and the decree thereof quashed the 1<sup>st</sup> respondent’s directive of 17<sup>th</sup> December 2024 insofar as the impugned directive purported to bar the ex parte applicants, including the 3<sup>rd</sup> ex parte applicant herein, from holding office in their primary co-operative societies and without first according them the opportunity to be heard, a decision which the court equally found to be ultra vires as the 1<sup>st</sup> respondent had no jurisdiction to issue such directive to cooperative societies in a devolved system of governance of cooperatives.
53. The 4<sup>th</sup> respondent asserts that in any event, the judgment of this court delivered on 24<sup>th</sup> June, 2025 explicitly noted that nothing therein ought to have been construed as reinstating the ex parte applicants to office, noting that their positions are elective and not appointive, and that the effect of certiorari is limited to quashing the impugned directive. Further, that the judgment further noted that leadership in the respective primary Saccos is elective and the same is done by members at the annual delegates or member’s meetings and therefore any subsequent actions by the respective societies must comply with the applicable law.
54. It is contended that the 4<sup>th</sup> respondent’s actions in removing the applicant were in full compliance with the law and the principles of democratic member control as enshrined in the law. Similarly, that the removal of the 3<sup>rd</sup> ex parte applicant was an internal governance matter exercised by the members, independent of the 1<sup>st</sup> respondent’s quashed directive and that that does not, therefore, constitute enforcement or perpetuation of the quashed decision.



55. The 4<sup>th</sup> respondent states that its Annual General Meeting (the AGM) is the Apex Body and the highest decision-making organ of the 4<sup>th</sup> respondent and that in the premises, the 1<sup>st</sup> and 2<sup>nd</sup> alleged contemnors and the 4<sup>th</sup> respondent management could not act contrary to the AGM's resolutions.
56. The 4<sup>th</sup> respondent further contends that the judgment only restrains the 1<sup>st</sup> respondent from unlawfully interfering with the governance of primary co-operative societies and does not require reinstating the 3<sup>rd</sup> ex parte applicant to the 4<sup>th</sup> respondent's Board, since his removal occurred earlier through a lawful internal process.
57. It is additionally contended that the 3<sup>rd</sup> ex parte applicant's allegation of contempt is unfounded because the 4<sup>th</sup> respondent has taken no post-judgment action that breaches the orders and that, any steps taken such as preparing for elections or filling vacancies are routine, lawful and consistent with the elective nature of the society's leadership structures, rather than an attempt to enforce the quashed directive.
58. The 4<sup>th</sup> respondent states that in any event, this honourable court issued orders on 22<sup>nd</sup> August 2025 staying any elections scheduled for 23<sup>rd</sup> August 2025 for replacement of the 3<sup>rd</sup> ex parte applicant as its board member pending the mention on 24<sup>th</sup> September 2025 and that the 4<sup>th</sup> respondent complied with the said orders.
59. In the 4<sup>th</sup> respondent's further affidavit, the deponent, Mr. Nteere who states that he is a member of good standing of the 4<sup>th</sup> respondent, Solution Sacco Society Ltd under membership number 0000081154, deposes that he was physically present during the said Sacco's Annual General Meeting held on 25<sup>th</sup> January 2025 at Gikumene Primary School, Meru County.
60. It is deposed that during the AGM, one Silas Kithinji Kamui member number 00000207397 proposed to amend the Notice and Agenda of the said AGM to include a substantive Agenda to discuss outstanding KUSSCO Matters and conduct of the said Board Member Tartisio Iruki Ituuru.
61. Mr. Nteere deposes that he seconded the amendment and the Notice and Agenda was unanimously passed by the members and that during the discussion of that Agenda, he proposed for removal of the said board member Tartisio Iruki Ituuru because, apart from the KUSSCO financial issues, he became unruly during the meeting, disrupted proceedings, caused chaos and brought in people who caused chaos during the meeting, which actions were against the Sacco By Laws and code of conduct. According to the deponent, the chaos threatened to scuttle the said AGM and hence the need to move the said motion for removal of the 3<sup>rd</sup> ex parte applicant as a Board member of the 4<sup>th</sup> respondent.
62. He further contends that during the meeting, the agenda was thoroughly discussed with members present contributing and the said 3<sup>rd</sup> ex parte applicant was given a chance to defend himself and give an explanation and which he chose not to respond. That after a lengthy discussion, the members unanimously agreed to have Tartisio Iruki Ituuru removed as a director of the Board, from the date of the AGM.
63. The deponent reiterates that that the 3<sup>rd</sup> ex parte applicant attended the AGM of 25<sup>th</sup> January 2025, he was informed of his right to respond to the motion for his removal, he understood this right, he chose not to respond and that he stated to the members that he would remain silent on the matter.
64. The deponent for the 4<sup>th</sup> respondent further states that the removal of the 3<sup>rd</sup> ex parte applicant was a sovereign decision of the members based on concerns raised about the 3<sup>rd</sup> ex parte applicant's conduct, including incitement aimed at disrupting the meeting and dissatisfaction with his role in matters that caused significant financial loss to the 4<sup>th</sup> respondent cooperative society. It is also contended that the



Applicant has not sought a review or appeal of the decision to remove him before the AGM, the Cooperatives Tribunal, or the Courts.

65. It is further deposed on behalf of the 4<sup>th</sup> respondent, emphasizing that the removal of the 3<sup>rd</sup> ex parte applicant as a board member was an independent action by members and unrelated to the 1<sup>st</sup> respondent's directive of 17<sup>th</sup> December 2024, which was later quashed by this Court. It is further asserted that disputes among Sacco members and the Sacco Society should first be lodged at the Cooperatives Tribunal.

### **Submissions**

66. The application was canvassed by way of oral submissions made before the court on 6<sup>th</sup> November 2025.
67. In his submissions, Mr. Okore counsel for the 3<sup>rd</sup> ex parte applicant argued that despite the judgment, of 24<sup>th</sup> June 2025, the 4<sup>th</sup> respondent has not obeyed the decree due to interference by the alleged contemnors and that the Sacco relies on non-interference of its internal affairs to commit the contempt.
68. Counsel for the 3<sup>rd</sup> ex parte applicant submitted that the 3<sup>rd</sup> ex parte applicant has not been removed from the Board of the 4<sup>th</sup> respondent and further that on the very day that the judgment of this Court was rendered and served on the 4<sup>th</sup> respondent, the 3<sup>rd</sup> ex parte applicant was informed of the Board meeting of 25<sup>th</sup> January 2025 where members are alleged to have resolved that he ceases representing the constituency.
69. The 2<sup>nd</sup> contemnor is said to have then issued a Notice of a vacancy to members communicating that vetting would be on 8<sup>th</sup> August 2025 in preparation for the election to be held on 23<sup>rd</sup> August 2025.
70. Mr. Okore also submitted that whereas there was an AGM on 25<sup>th</sup> January 2025, there was no resolution or agenda for removal of the 3<sup>rd</sup> ex parte applicant. He also contended that the affidavit of 12<sup>th</sup> September 2025 contains an excerpt of the AGM of 25<sup>th</sup> January 2025, not minutes of the AGM of the said meeting. He submitted that there was no resolution during that meeting to remove the 3<sup>rd</sup> ex parte applicant. Further, that the Paragraphs 131 & 136 of the judgment of this Court were clear on the process for removal of a Board member and that the removal is not supported by two-third majority. He also submitted that on 3<sup>rd</sup> February 2025, Mr. Mbaabu counsel for the 4<sup>th</sup> respondent submitted that Mr. Ituuru, the 3<sup>rd</sup> ex parte applicant was still a Board member.
71. In response, Mr. Mbaabu advocate for the 4<sup>th</sup> respondent submitted that this court has no jurisdiction to deal with the issues of the AGM and that only the Cooperatives Tribunal can. He reiterated that the 3<sup>rd</sup> ex parte applicant was offered an opportunity to defend himself during the AGM when a motion to remove him as a board member was mooted but that he elected to remain silent. Further, that the excerpt was on the issue of removal and the 2<sup>nd</sup> was the amendment of the AGM Agenda.
72. On behalf of the 1<sup>st</sup> alleged contemnor, Mr. Kariuki submitted that 1<sup>st</sup> alleged contemnor was not a party to these proceedings and was only enjoined to these contempt proceedings. Further, that there is no order directed at him for compliance. It was also his submission that it has not been demonstrated that he has done anything in furtherance of contempt, and that his only fault was signing a letter dated 24<sup>th</sup> July 2025 communicating the decision of the AGM of the 4<sup>th</sup> respondent to the 3<sup>rd</sup> ex parte applicant.
73. Mr. Kariuki further submitted that a distinction must be made between what was before this Court for consideration and the decision by the Commissioner of Cooperatives to remove the 3<sup>rd</sup> ex parte applicant from office, from the decision to remove the 3<sup>rd</sup> ex parte applicant by the general membership



- of the 4<sup>th</sup> respondent at the AGM. Counsel submitted that those are different, not co-joined issues. He argued that the issue of removal by general membership was never before this Court.
74. Counsel for the 1<sup>st</sup> alleged contemnor also submitted that the Court in its judgment was clear that the respondent Saccos were free to engage in their own internal mechanisms. Further, that the 3<sup>rd</sup> ex parte applicant does not dispute the AGM of 25<sup>th</sup> January 2025 but claims that his removal was not in the agenda and that due process was not followed.
75. He submitted that if there were any infractions in the manner that the agenda was introduced and prosecuted, the 3<sup>rd</sup> ex parte applicant could challenge that in separate proceedings before this Court and or before the Cooperatives Tribunal, but not to cojoin that issue with these proceedings. Mr. Kariuki submitted that there is no evidence of contempt of the orders of this Court and that there is no evidence that the 1<sup>st</sup> alleged contemnor in any way did anything contemptuous of the Court. That he only communicated the decision of the general membership and of the Board and that no contempt has been established on his part.
76. On behalf of the 2<sup>nd</sup> alleged contemnor, Mr. Ikioo submitted in opposition to the contempt application and argued that the judgment on 24<sup>th</sup> June 2025 quashed the directive of the Commissioner of Co-operative Development made on 17<sup>th</sup> December 2024 but expressly did not reinstate the 3<sup>rd</sup> ex parte applicant to office. That the 3<sup>rd</sup> ex parte applicant was removed from office on 25<sup>th</sup> January 2025 and the follow up Board consultative meeting, which events preceded the judgment of this Court. That the removal of the 3<sup>rd</sup> ex parte applicant as member of the 4<sup>th</sup> respondent as well as the subsequent scheduled elections to replace him were not, in any way, in execution of the judgment of 24<sup>th</sup> June, 2025 hence there was no continuing obligation requiring reversal.
77. It was further submitted that the alleged 2<sup>nd</sup> contemnor acted in compliance with this Court's interim orders of 23<sup>rd</sup> August 2025 by cancelling the scheduled election, which fact is not disputed. Further, that the compliance with court orders defeats the alleged contempt and also that there is no evidence of deliberate, willful defiance of court orders.
78. According to Mr. Ikioo, the 2<sup>nd</sup> alleged contemnor did not act with intention to defeat the orders of the Court nor did he take steps to violate court orders. He also argued that the application by the 3<sup>rd</sup> ex parte applicant misapprehends Sacco governance issues, which could have been raised before the Cooperatives Tribunal. It was his submission that there is no evidence of willful deliberate violation of court orders and that as such, the application for contempt should be dismissed.
79. In his rejoinder, Mr. Okore for the 3<sup>rd</sup> ex parte applicant responded upon the court inquiring on whether his client was a continuing or retiring member of the Board, stating that the 3<sup>rd</sup> ex parte applicant was a continuing member of the Board and that he attended the AGM of 25<sup>th</sup> January 2025. Counsel submitted that there was no agenda for removal at the AGM nor a resolution passed. Further, that there is only one event of quashing of the directive of the Commissioner. It was also submitted that the applicant being a continuing member, upon this court quashing the directive, nothing barred the 3<sup>rd</sup> ex parte applicant from resuming as a Board member.
80. Counsel also submitted that all the events by the alleged contemnors are subsequent to the judgment of this Court. Further, that no AGM minutes but just excerpts of the minutes were filed into court. It was argued that the alleged contemnors' actions are intentional and that the replacement of the 3<sup>rd</sup> ex parte applicant was done when the Court was on recess.



## Analysis and Determination

81. This Court has carefully considered the Notice of Motion dated 12<sup>th</sup> August 2025, together with the supporting and further affidavit as well as the replying affidavits in opposition and the respective parties' counsel's submissions.
82. I have given equal consideration to the entire Court record, including the judgment delivered on 24<sup>th</sup> June 2025. The main issue that emerges for determination is whether the alleged contemnors, jointly with the 4<sup>th</sup> respondent, engaged in conduct amounting to disobedience of the judgment and decree of this Court rendered on 24<sup>th</sup> June, 2025.
83. In resolving this issue, this Court will address three subsidiary issues/questions. First, whether a finding of contempt can be grounded on acts said to have occurred before the issuance of the impugned court order; second, whether the conduct occurring after the judgment discloses elements of brazen disobedience of this Court's orders; and third, whether the grievances advanced fall within the Court's contempt jurisdiction or are matters properly reserved for determination by the Co-operatives Tribunal.
84. In the contempt of court application, the 3<sup>rd</sup> ex parte applicant contends that despite the quashing of the Commissioner's directive of 17<sup>th</sup> December 2024, the alleged contemnors proceeded to treat the 3<sup>rd</sup> ex parte applicant as lawfully removed from being a board member of the 4<sup>th</sup> respondent Sacco Society and that they initiated a process to fill the vacancy on the 4<sup>th</sup> respondent's Board, thus undermining and defeating the effect of the court orders.
85. The alleged contemnors and the 4<sup>th</sup> respondent on their part maintain that the 3<sup>rd</sup> ex parte applicant was removed by members of the society through a sovereign decision made by the AGM on 25<sup>th</sup> January 2025 well before the judgment of this court and that no post-judgment action has violated the orders. They further argue that this Court's judgment did not reinstate the 3<sup>rd</sup> ex parte applicant into membership of the Board and that in its judgment, this Court expressly recognized that leadership of primary co-operatives is elective.
86. The Black's Law Dictionary (9<sup>th</sup> Edition) defines contempt to be:
- “Conduct that defies the authority or dignity of a court. Because such conduct interferes with the administration of justice, it is punishable usually by fine or imprisonment.”
87. Contempt, at its core, encompasses conduct that threatens or compromises the proper administration of justice. The scope of contempt extends beyond the mere enforcement of court orders. Superior courts are vested with the authority to punish parties who disregard or defy Court directives, an essential power that preserves the Court's dignity, authority and integrity. Accordingly, when the Court is invited to sanction an alleged contemnor, it acts not only to vindicate the rights of the successful litigant, but also to uphold the wider public interest in the rule of law. See the case of Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] eKLR.
88. In the Scottish case of Stewart Robertson vs Her Majesty's Advocate, 2007 HCAC63, Lord Justice Clerk stated that:
- “Contempt of court is constituted by conduct that denotes willful defiance of or disrespect towards the court or that willfully challenges or affronts the authority of the court or the supremacy of the law, whether in civil or criminal proceedings.”



89. In the case of Kenya Tea Growers Association Vs Francis Atwoli and 5 Others [2012] eKLR Lenaola J (as he then was in the High Court) cited with approval the case of Clarke and Others Vs Chadburn & Others [1985] 1All E.R (PC), 211 in which the Court observed that:

“I need not cite authority for the proposition that it is of high importance that orders of the courts should be obeyed, willful disobedience to an order of the court is punishable as a contempt of court, and I feel no doubt that such disobedience may properly be described as being illegal....even if the Defendants thought that the injunction was improperly obtained or too wide in its terms, that provides no excuse for disobeying it. The remedy is to vary or discharge it.”

90. On the significance of contempt proceedings, the Court in the case of Econet Wireless LTD vs. Minister for Information & Communication of Kenya & Another [2005] eKLR held that:

“Where an application for committal for contempt of court orders is made the court will treat the same with a lot of seriousness and urgency and more often will suspend any other proceedings until the matter is dealt with and if the contempt is proven to punish the contemnor or demand that it is purged or both. For instance, an alleged contemnor will not be allowed to prosecute any application to set aside orders or take any other step until the application for contempt is heard. The reasons for this approach are obvious- a contemnor would have no right of audience in any court of law unless he is punished or purges the contempt.”

91. It is trite that contempt of court proceedings and applications are subtle and quasi-criminal in nature and courts would impose criminal sanctions if a conviction followed. It follows that the standard of proof in contempt proceedings is higher than on a balance of probabilities and more proximate to beyond reasonable doubt in view of the penal consequences that can befall a convicted contemnor.

92. The procedure existing before the enactment of the *Contempt of Court Act* which Act was declared unconstitutional was restated by the Court of Appeal in Christine Wangari Gachege v. Elizabeth Wanjiru Evans & 11 Others [2014] eKLR. In that case, the Court found that Rule 81.4 of the English Civil Procedure Rules is the one that deals with breach of judgment, order or undertaking. The English law on committal for contempt of court was applied by virtue of section 5(1) of the *Judicature Act* which provided that; The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and that power shall extend to upholding the authority and dignity of subordinate courts.

93. Accordingly, the procedure for contempt of court proceedings is under Order 52 of the Rules of the Supreme Court Judicature in England as amended from time to time which provided as follows:

- a. Application to the High Court of England for committal for contempt of court would not be granted unless leave to make such an application had been granted.
- b. An application for leave must be made ex parte to a judge in chambers and be supported by a statement setting out the particulars of the applicant as well as those of the person sought to be committed and the grounds on which his committal was sought, and by an affidavit verifying the facts relied on.
- c. The applicant must give notice of the application for leave not later than the preceding day to the Crown Office.



- d. Where an application for leave was refused by a judge in chambers the applicant may apply afresh to a divisional court for leave within 8 days after the refusal by the Judge.
  - e. When leave had been granted, the substantive application by a motion would be made to a divisional court.
  - f. The motion must be entered within 14 days after the granting of leave; if not, leave shall lapse.
  - g. The motion together with the statement and affidavit must be served personally on the person sought to be committed, unless the court thought otherwise.
94. Having considered the above, this Court observes that there was an Annual General Meeting of the 4<sup>th</sup> respondent held on 25<sup>th</sup> January 2025 and the consultative Board meeting of 5<sup>th</sup> February 2025. These two events took place before the hearing and determination of the judicial review application and the judgment of this Court delivered on 24<sup>th</sup> June 2025. However, the communication of 24<sup>th</sup> July 2025 was after the judgment was delivered but related to actions whose foundation preceded the judgment.
95. This chronology raises the central question of whether conduct founded on events occurring prior to the existence of a court order can, in law, constitute contempt of that court order. The short answer is no. As a matter of settled law, contempt presupposes the existence of a valid, clear and binding court order issued by a court of competent jurisdiction, knowledge of that order by the alleged contemnor and subsequent willful disobedience of its terms. Any conduct that predates the issuance or knowledge of the order cannot constitute contempt of court.
96. In *Samuel M. N. Mweru & Others v National Land Commission & 2 Others* [2020] eKLR, Mativo J. (as he then was) restated the test for establishing contempt of court and stated that:

“ 40. It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove ;

- (i) the terms of the order,
- (ii) Knowledge of these terms by the Respondent,
- (iii) Failure by the Respondent to comply with the terms of the order.

“Upon proof of these requirements the presence of willfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities. Perhaps the most comprehensive of the elements of civil contempt was stated by the learned authors of the book *Contempt in Modern New Zealand* who succinctly stated: -

“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) that:

- (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.”

97. These principles are consistent with long-standing judicial authority on contempt of court. In *Ochino & another vs. Okombo & 4 others* [1989] KECA 65 (KLR) the Court of Appeal cited the decision in the case of *Mwangi Mangondu v Nairobi City Commission* (Civil Appeal No 95 of 1988) wherein it was stated:

“This requirement is important because the court will only punish as a contempt a breach of injunction if satisfied that the terms of the injunction are clear and unambiguous, that the defendant has proper notice of the terms and that breach of the injunction has been proved beyond reasonable doubt.”

98. The Supreme Court in *Shimmers Plaza Ltd v National Bank of Kenya Ltd* [2015] eKLR reaffirmed that the order must be clear, unambiguous and unequivocal at the time of the alleged violation.

99. In this case, at the time that the AGM of 25<sup>th</sup> January 2025 was held and the 4<sup>th</sup> respondent Board meeting of 5<sup>th</sup> February 2025 held, this court's judgment of 24<sup>th</sup> June 2025 had not been delivered and as such, there was no order in existence directing the respondents or the 4<sup>th</sup> respondent's membership on how to constitute their leadership, nor was there any command of the Court capable of being disobeyed. The conduct complained of therefore cannot, in law, constitute contempt of this Courts' judgment and orders made on 24<sup>th</sup> June, 2025.

100. To hold otherwise would in the view of this Court, offend the foundational principle that contempt is a quasi-criminal remedy, requiring strict compliance with its elements and that therefore, one cannot be punished for breaching an order that had not yet been issued, whose terms were not yet known and which order was not yet binding on any party. The application therefore collapses at the very first limb of the legal test.

101. The second question for determination is whether there is any post judgment action that amounted to willful disobedience of this Court's order of 24<sup>th</sup> June, 2025. The only post-judgment actions complained of are a letter dated 24<sup>th</sup> July 2025 communicating the AGM decision, a notice of vetting for 8<sup>th</sup> August 2025 and the preparatory exercise for an election scheduled for 23<sup>rd</sup> August 2025.

102. These steps were administrative actions flowing from the alleged 25<sup>th</sup> January 2025 AGM resolution. They did not purport to enforce the Commissioner's quashed directive. There is no evidence that the 4<sup>th</sup> respondent or the alleged contemnors acted in furtherance or perpetuation of the quashed directive.

103. Moreover, when this Court issued orders on 22<sup>nd</sup> August 2025 staying the scheduled election, the 4<sup>th</sup> respondent complied. This compliance negates the allegation of willful disobedience. There is therefore no post judgment act that can be said to have been done in violation of any clear directive of this Court.

104. On whether the validity of the AGM and the alleged removal of the 3<sup>rd</sup> ex parte applicant as a member of the Board of the 4<sup>th</sup> respondent is an issue for this court's jurisdiction. The 3<sup>rd</sup> ex parte applicant has disputed that his removal was an agenda item at the AGM of the 4<sup>th</sup> respondent, that the two-thirds majority was not obtained, that due process under the by-laws of the 4<sup>th</sup> respondent society was not followed and that the excerpts filed before this Court do not constitute minutes of the AGM.



105. These are merits-based governance disputes between the 3<sup>rd</sup> ex parte applicant and his cooperative society, falling squarely within the jurisdiction of the Co-operatives Tribunal established under Section 77 of the Co-operative Societies Act.

106. Section 76 of the Cooperative Societies Act provides for settlement of disputes as follows:

#### PART XIV –SETTLEMENT OF DISPUTES

##### 76. Disputes

(1) If any dispute concerning the business of a co-operative society arises: —

- (a) among members, past members and persons claiming through members, past members and deceased members; or
- (b) between members, past members or deceased members, and the society, its committee or any officer of the society; or
- (c) between the society and any other co-operative Society; it shall be referred to the Tribunal.

(2) A dispute for the purpose of this section shall include—

- (a) a claim by a co-operative society for any debt or demand due to it from a member or past member, or from the nominee or personal representative of a deceased member, whether such debt or demand is admitted or not; or
- (b) a claim by a member, past member or the nominee or personal representative of a deceased member for any debt or demand due from a co-operative society, whether such debt or demand is admitted or not.
- (c) a claim by a Sacco society against a refusal to grant or a revocation of licence or any other due, from the Authority.

107. Holding an annual general meeting is the business of a cooperative society as stipulated in section 27 of the Cooperative Societies Act. It follows that any member who is aggrieved by the decisions taken at the Annual general meeting, whether the decision denial of a member of his right to be heard or to participate in decision making or where an agenda is introduced on the floor without notice or there is lack of quorum in decision making, they have a right to challenge that decision before the Cooperatives Tribunal.

108. The Act at section 81 provides for appeals decisions of the Tribunal and states that:

##### 81. Appeal to High Court



- (1) Any party to the proceedings before the Tribunal who is aggrieved by any order of the Tribunal may, within thirty days of such order, appeal against such order to the High Court:

Provided that the High Court may, where it is satisfied that there is sufficient reason for so doing, extend the said period of thirty days upon such conditions, if any, as it may think fit.

109. Thus, contempt jurisdiction is not a vehicle for challenging validity of an AGM and how it was conducted by the Cooperative Society, its internal democratic processes or the procedural propriety of the resolutions. A contempt Court cannot therefore interrogate the correctness of an election or removal decision, where the court had not issued any order relating to the AGM activities the Court's role is strictly to determine compliance with its judgment. This complaint relating to the AGM and the resolutions by members of the 4<sup>th</sup> respondent, and whether they lawfully moved a motion for removal of the 3<sup>rd</sup> ex parte applicant from the Board, whether there was an agenda for his removal or whether the quorum was attained are matters that lie in a different legal forum which is the Cooperatives Tribunal and not within the jurisdiction of this Court by way of contempt of Court judgment of 24<sup>th</sup> June, 2025. It is also worth mentioning that the contempt jurisdiction is not a substitute for an appellate or review mechanism over decisions of a co-operative society's internal governance organs.
110. Having evaluated the material placed before me and the applicable law, I find and hold that the alleged acts of contempt occurred before the judgment of 24<sup>th</sup> June 2025 and cannot, in law, constitute contempt. There is no evidence of any post-judgment willful disobedience of any clear and unambiguous order of this court. The matters raised concerning the validity of the AGM and the 3<sup>rd</sup> ex parte applicant's removal lie within the jurisdiction of the Co-operatives Tribunal, not in contempt proceedings.
111. Accordingly, I find the 3<sup>rd</sup> ex parte applicant's notice of motion application for contempt of court dated 12<sup>th</sup> August 2025 to be wholly devoid of merit and the same is hereby dismissed.
112. Costs follow the event and in favour of a successful party. However, as the Court did not award costs in the initial substantive motion which was successful, I shall not penalize the 3<sup>rd</sup> ex parte applicant at this stage noting that contempt proceedings are intended to protect the dignity and authority of the court.
113. Accordingly, I order that each party shall bear its own costs of the application.
114. This file is now closed.

**DATED, SIGNED & DELIVERED VIRTUALLY AT NAIROBI THIS 3<sup>RD</sup> DAY OF DECEMBER, 2025**

**R.E. ABURILI**

**JUDGE**

