

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**  
**ELCC NO. E223 OF 2022**

**HI JUNG HO CHILDREN’S HOME.....PLAINTIFF/APPLICANT**

**VERSUS**

<b>LIFE</b>	<b>REFORMATION</b>	<b>CENTRE.....1<sup>ST</sup></b>
<b>DEFENDANT/RESPONDENT</b>		
<b>NATIONAL</b>	<b>LAND</b>	<b>COMMISSION.....2<sup>ND</sup></b>
<b>DEFENDANT/RESPONDENT</b>		
<b>NAIROBI</b>	<b>CITY</b>	<b>COUNCIL.....3<sup>RD</sup></b>
<b>DEFENDANT/RESPONDENT</b>		
<b>SOSPETER</b>	<b>GATHAHU</b>	<b>MUMBI.....4<sup>TH</sup></b>
<b>DEFENDANT/RESPONDENT</b>		
<b>ETHICS AND ANTI-CORRUPTION</b>		
<b>COMMISSION.....5<sup>TH</sup></b>		
<b>DEFENDANT/RESPONDENT</b>		

**RULING**

**1.** Before this court for determination is the notice of motion dated 27<sup>th</sup> August, 2025 filed by the plaintiff/applicant, and it is expressed to be brought under **Sections 5 and 13** of the **Contempt of Court Act, 2016**, **Sections 1A,1B and 3A** of the **Civil Procedure Act**, and **Order 40 Rule 3** of the **Civil Procedure Rules** seeking the following orders -

**1. Spent.**

**2. That this honourable court be pleased to find and declare that the 1<sup>st</sup> defendant/ respondent, Life Reformation Centre and/or its trustees,**

***agents, servants or assigns are in contempt of the court orders issued on 10<sup>th</sup> June 2025, by Hon. Justice Charles Mbogo restraining the 1<sup>st</sup> defendant/ respondent from further development on the suit property Nairobi Block 110/686.***

- 3. That this honourable court be pleased to issue an order committing the trustees of the 1<sup>st</sup> defendant/respondent, Life Reformation Centre, including Josphat Mungai alias Karanja, to civil jail for a period not exceeding six (6) months or such other period as the court may deem fit for contempt of court.***
- 4. That this honourable court be pleased to issue an order compelling the 1<sup>st</sup> defendant/respondent to purge the contempt by immediately ceasing all construction, development, leasing, farming and other activities on the suit property, removing all unauthorized structures, reinstating the felled trees or compensating for environmental damage, and vacating any lessees or occupants currently residing within the suit property being Nairobi Block 110/686.***
- 5. That in the alternative, this honourable court be pleased to impose a fine on the 1<sup>st</sup> defendant/ respondent and its trustees for***

***contempt of court, in such amount as the court deems just.***

- 6. That the Officer Commanding Station (OCS) Central Station be directed to provide security and enforce the orders of this court, including overseeing the immediate cessation of all unauthorized activities on the suit property being Nairobi Block 110/686.***
  - 7. That the 1<sup>st</sup> defendant/respondent (Life Reformation Centre), its trustees, agents, servants, lessees (including Nexus Ridge School), and any other occupants be evicted forthwith from the suit property known as Nairobi Block 110/686, and the plaintiff/applicant be granted vacant possession thereof.***
  - 8. That the costs of this application be borne by the 1<sup>st</sup> defendant/respondent.***
- 2.** The application is premised on the grounds on the face of it, and further as contained in the supporting affidavit of Byum Soo Oh on behalf of the plaintiff/applicant sworn on even date. The plaintiff/applicant deposed that on 10<sup>th</sup> June, 2025, this court issued orders restraining the 1<sup>st</sup> defendant/respondent from further developments on the suit property. It was deposed that the said

orders included a penal notice warning of penal consequences for any disobedience for non-observance. The plaintiff/applicant deposed that the 1<sup>st</sup> defendant/respondent has defied the said orders by further engaging in construction of structures, cutting down trees and leasing the suit property to Nexus Ridge School which has erected a signboard and is operating thereon.

3. The plaintiff/applicant deposed that on 11<sup>th</sup> August, 2025, the 3<sup>rd</sup> defendant/respondent issued an enforcement notice declaring the said developments illegal, and that on 4<sup>th</sup> August, 2025, its advocates had written to the trustees of the 1<sup>st</sup> defendant/respondent to cease all activities and abuse, but the 2<sup>nd</sup> defendant/respondent has failed to comply. It was deposed that the 1<sup>st</sup> defendant's/respondent's actions constitute a deliberate and willful disobedience of this court's orders, and that this court has jurisdiction under **Sections 5 and 13** of the **Contempt of Court Act, 2016** to punish for contempt and to ensure compliance with its orders.
4. The 1<sup>st</sup> defendant/respondent filed its replying affidavit sworn on 8<sup>th</sup> October, 2025 by Chephas Njuguna Chege. The 1<sup>st</sup> defendant/respondent deposed that the instant application is part of the plaintiff's/applicant's law firm's effort to have control over

the home with an intention to sell the same and render the vulnerable children destitute and homeless. Further, that no effort was made to extract the said order and effect service, as no evidence has been shown. The 1<sup>st</sup> defendant/respondent urged the court to look at the letter dated 4<sup>th</sup> August, 2025.

5. The 1<sup>st</sup> defendant/respondent further deposed that the 1<sup>st</sup> defendant's/respondent's actions and programs in the home are only geared towards promoting children's dignity, protection, safety as mandated by the children's department. Further, that all the constructions happened between March, and April, 2025 under close supervision of the late founder.
6. The application was canvassed by way of written submissions. The plaintiff/applicant filed its written submissions dated 6<sup>th</sup> October, 2025. The 1<sup>st</sup> defendant/respondent filed its written submissions dated 22<sup>nd</sup> October, 2025.
7. I have carefully considered the application, the replying affidavit, and the written submissions filed by the respective parties. The issue for determination is *whether the plaintiff/applicant has established contempt of court orders against the 1<sup>st</sup> defendant/respondent.*

8. On 10<sup>th</sup> June 2025, this court issued orders against the 1<sup>st</sup> defendant/respondent to stop further development on the suit property pending the directions of the court that were to be issued on 20<sup>th</sup> June, 2025. This order was issued in the presence of counsel for the interested party/applicant, the plaintiff/respondent/2<sup>nd</sup> defendant, 1<sup>st</sup> defendant and 3<sup>rd</sup> defendant. It therefore follows that owing to legal representation by the parties in the virtual session on the material date, it is presumed that the 1<sup>st</sup> defendant/respondent was aware of the court's orders.
9. However, I am constrained to pronounce myself on the instant application as argued by the plaintiff/applicant that this court has jurisdiction under **Sections 5 and 13 of the Contempt of Court Act, 2016**. In the case of **Kenya Human Rights Commission v Attorney General; Law Society of Kenya (Interested Party) [2018] KEHC 9656 (KLR)**, the High Court declared the entire Contempt of Court Act No. 46 of 2016 invalid and unconstitutional. It follows that an application for contempt brought under the provisions of the impugned **Act** are null and void and the court's jurisdiction cannot be invoked in the circumstance.
10. The notice of motion dated 27<sup>th</sup> August, 2025 fails to the extent that it has been brought pursuant to an **Act** that has been declared

unconstitutional and the same is hereby dismissed. I make no orders as to costs.

Orders accordingly.

**DATED, SIGNED & DELIVERED VIRTUALLY  
THIS 15<sup>TH</sup> DAY OF DECEMBER, 2025.**

**HON. MBOGO C.G.  
JUDGE  
15/12/2025.**

***In the presence of:***

*Mr. Benson Agunga - Court assistant*

*Ms. Githongori holding brief for Mr. Lusiola for the Plaintiff/Applicant*

*Mr. Onsembe holding brief for Mr. Ongegu for the 1<sup>st</sup>  
Defendant/Respondent*

*Ms. Wanini for the 2<sup>nd</sup> Defendant /Respondent*

*Ms. Ruth Kiunga holding brief for Mr. Erick Theuri for the 3<sup>rd</sup>  
Defendant/Respondent*