



**Gacina v Mwamba & 9 others (Environment and Land Case  
E116 of 2023) [2026] KEELC 178 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 178 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE E116 OF 2023**

**JG KEMEI, J  
JANUARY 22, 2026**

**BETWEEN**

**DANSON KIMANI GACINA ..... APPLICANT**

**AND**

**TERESA MWAMBA ..... 1<sup>ST</sup> RESPONDENT**

**LUNYO NGAMIA ..... 2<sup>ND</sup> RESPONDENT**

**EMBAKASI RANCHING COMPANY LIMITED ..... 3<sup>RD</sup> RESPONDENT**

**LUCY NYOKABI MATHENGE ..... 4<sup>TH</sup> RESPONDENT**

**WALTER KIGERA WAIRERI ..... 5<sup>TH</sup> RESPONDENT**

**RAPHAEL KIRUMWA THIMBA ..... 6<sup>TH</sup> RESPONDENT**

**ANTHONY JAMJES MUHORO ..... 7<sup>TH</sup> RESPONDENT**

**PETER GICHANGI MUNENE ..... 8<sup>TH</sup> RESPONDENT**

**GODFREY MUHURI MUCHIRI ..... 9<sup>TH</sup> RESPONDENT**

**THE HON ATTORNEY GENERAL ..... 10<sup>TH</sup> RESPONDENT**

*(in respect to the Applicant's application dated 16/7/25)*

**RULING**

1. What is before the court is the application dated the 16/7/25 filed by the applicant against the respondents seeking the following orders;



- a. That the Inspector General of Police does depute a competent officer to effect the judgment and decree herein dated the 3/6/25 and give police protection to Duncan Mugambi t/a Wright Auctioneers while executing the decree.
  - b. That the Embakasi Ranching Company Limited, its chairperson Lucy Nyokabi & Vice Chair Walter Kigera , their agents servants and or employees be cited for contempt for disobeying the judgement and decree dated 3/6/25 by refusing vacant possession and stop intermeddling with plot No Nairobi /Block 105/10475 & 10477 [suit lands] situate at Ruai within Embakasi Ranching Co Limited and pay the decreed sum of Kshs 500,000/-.
  - c. That Embakasi Ranching Co Limited, its Chairperson Lucy Nyakobi & Vice Chair Walter Kigera be fined /or committed to jail for at least 6 months for disobeying the judgment and decree dated 3/6/25.
  - d. Costs of the application.
2. The application is premised on the grounds annexed thereto and the supporting affidavit sworn by the applicant on even date.
  3. The deponent states that the decree dated 3/6/25 was served upon Embakasi Ranching Co Limited and its Chairperson Lucy Nyokabi and Vice Chair Walter Kigera their agents, servants and or employees together with penal notice but they have refused to comply with the orders granting vacant possession and paying the decretal amount in the sum of Kshs 500,000/- hence they are in contempt of court orders aforesated. That attempts to execute have been rendered fruitless. That this court has power to punish for contempt of court and was urged to do so.
  4. The application is not opposed despite service. The applicant informed the court that he will be relying on his affidavit evidence on record.
  5. Issues for determination are whether the application is merited and who meets the costs of the same.
  6. I will start with the issue of whether the respondents have disobeyed the court orders. It is true that the Respondents failed to participate in the hearing of the suit, hence the suit was undefended.
  7. Section 29 of the ELC Act empowers this court to punish for contempt of court. It states as follows;
 

“ Any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding two years, or to both”
  8. Similarly Section 63(c) of the *Civil Procedure Act* empowers the court to punish for contempt to uphold the dignity and authority of the courts and to prevent the ends of justice from being defeated. This was the ruling of the court in the case of Fred Matiang’i, the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government v Miguna Miguna & 4 others [2018] KECA 789 eKLR, which stated that: at:
 

“When courts issue orders, they do so not as suggestions or pleas to the persons at whom they are directed. Court orders issue ex cathedra are compulsive, peremptory and expressly binding. It is not for any party; be he high or low, weak or mighty and quite regardless of his status or standing in society, to decide whether or not to obey; to choose which to obey and which to ignore or to negotiate the manner of his compliance.”



9. It is not in dispute that the court on 8/5/25 delivered its judgement in favour of the Applicant as follows;
- a. “The case of the Plaintiff succeeds and I grant the prayers as prayed.
  - b. The plaintiff is awarded Kshs 500,000/- payable by the 1<sup>st</sup> Defendant.
  - c. I make no orders as to costs.”
10. Black’s Law Dictionary, 9th Edition at page 360 defines contempt as follows;
- “Contempt is a disregard of, disobedience to, the rules, or Orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behaviour or insolent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body.”
11. The constitutional imperative of contempt was captured in the case of Kenya Human Rights Commission V Attorney General and Another (2018) eKLR, the Court observed as follows:
- “Article 159 of *the Constitution* recognizes judicial authority of the Courts and tribunals established under *the Constitution*. Courts and Tribunals exercise this authority on behalf of the people and for that reason they must not only be respected and obeyed but must also be complied with in order to enhance public confidence in the Judiciary which is vital for our Constitutional democracy. The Judiciary acts in accordance with the laws (Article 160) and exercises its authority through its judgments, decrees and orders or directions to check government power, keep it within the Constitutional stretch, hold the Legislature and Executive to account and thereby secure the rule of law, administration of justice and protection of Human rights. For that reason, the authority of the Courts and dignity of their processes are maintained when Court orders are obeyed and respected thus Courts become effective in the discharge of their Constitutional mandate...
12. It is well-established law that any person subject to a Court Order has an unqualified duty to comply with the Order, regardless of how unpalatable it may be, until the Order is discharged or set aside. See the case of Hadkinson –vs- Hadkinson, (1952) ALL ER 567, where the court stated as follows;
- “It is the plain and unqualified obligation of every person against, or in respect of, whom an order is made by a Court of competent jurisdiction to obey it unless and until that 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 an order believes it to be irregular or even void.
13. For an application for contempt to succeed, the Applicant is duly bound to prove the following 4 elements; -
- 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.



14. Although the respondents were unrepresented/absent when the judgment was delivered, the court has been shown the affidavit of service dated 15/9/25 in which the respondents were duly served with the court orders. It is the applicant's case that the respondents have disobeyed the court orders and hence the urge to hold them in contempt of the court orders. The court is satisfied that the respondents were duly served with the court orders.
15. From the foregoing, the court finds that the court orders were brought to the respondents' knowledge and that they have deliberately disobeyed them, hence the continued non-compliance with the orders. The respondents, having been served with the application and the orders, did not controvert them. In the absence of evidence to the contrary, the court is therefore persuaded that the applicant has proved contempt of court against the respondents.
16. In the end I find the application is merited and it is hereby allowed as follows;
  - a. That the Embakasi Ranching Company Limited, its chairperson Lucy Nyokabi & Vice Chair Walter Kigera , their agents servants and or employees be and are hereby held in contempt of court for disobeying the judgement and decree dated 3/6/25 by refusing vacant possession and stop intermeddling with plot No Nairobi /Block 105/10475 & 10477 [suit lands] situate at Ruai within Embakasi Ranching Co Limited and pay the decreed sum of Kshs 500,000/-.
  - b. The respondents be and are hereby ordered to purge the contempt within the next 60 days in default the respondents are ordered to appear before the court for mitigation and sentencing by the court.
  - c. That the Inspector General of Police does depute a competent officer to effect the judgment and decree herein dated the 3/6/25 and give police protection to Duncan Mugambi t/a Wright Auctioneers while executing the decree.
  - d. Noting that the application is unopposed , I make no orders as to costs.
17. Orders accordingly

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22<sup>ND</sup> DAY OF JANUARY 2026 THROUGH MICROSOFT TEAMS.**

**J G KEMEI  
JUDGE**

