



Sai Sports Wear Uniforms Ltd v National Environment M. Authority & 5 others; Mugo & another (Contemnor) (Environment and Land Case E033 of 2023) [2026] KEELC 316 (KLR) (29 January 2026) (Ruling)

Neutral citation: [2026] KEELC 316 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E033 OF 2023
AA OMOLLO, J
JANUARY 29, 2026**

BETWEEN

SAI SPORTS WEAR UNIFORMS LTD APPLICANT

AND

NATIONAL ENVIRONMENT M. AUTHORITY 1ST RESPONDENT

COUNTY GOVERNMENT OF NAIROBI 2ND RESPONDENT

MINISTRY OF ENVIRONMENT 3RD RESPONDENT

KENYAN URBAN ROADS AUTHORITY 4TH RESPONDENT

WATER RESOURCES AUTHORITY 5TH RESPONDENT

NATIONAL LAND COMMISSION 6TH RESPONDENT

AND

MR. EMILIO MUGO CONTEMNOR

H.E SAKAJA ARTHUR JOHNSON CONTEMNOR

RULING

1. The Plaintiff/Applicant filed a Notice of Motion dated 14th July 2025 supported by an affidavit sworn by Mohamed Rahemtulla on the same date seeking for the following orders;
 1. That this Honourable Court be pleased to cite and punish by issuance of order of committal civil jail against the Contemnors for disobeying court orders issued by this Honourable Court on 1st April, 2025 directing that inter alia;



That the Application is compromised by it being allowed as against the 1st and 2nd Defendants to:

- a. Immediately stop all ongoing dumping activities along Road A and within the river and at the end of Sai Road near Kibo Street, Ectoville Estate.
 - b. Undertake the removal of all existing waste, rubbish and debris from the affected areas.
2. That this Honourable Court be pleased to direct that the alleged Contemnors do immediately stop all ongoing dumping activities along Road A and within the river and at the end of Sai Road near Kibo Street, Ectoville Estate and undertake the removal of all existing waste, rubbish and debris from the affected areas.
 3. That the cost of this application be borne by the Contemnors.
2. The Applicant deposes that on 1st April 2025, this Court, by consent of the parties and in the presence of the 1st and 2nd Defendants' advocates, issued orders directing the Defendants to immediately stop all dumping activities along Road A, within the river and at the end of Sai Road near Kibo Street in Ectoville Estate, and to remove all existing waste, rubbish and debris from the affected areas. The said orders were for immediate compliance and remain in force, having neither been set aside nor varied by any competent court.
 3. That, despite being fully aware of the orders and having been served on 9th April 2025, the Respondents and alleged contemnors have failed, neglected and/or refused to comply. The Applicant stated that illegal dumping has allegedly continued, with annexed evidence of further dumping on 10th, 16th and 22nd June 2025, over two months after the orders were issued, and that no effort has been made to remove the existing waste.
 4. The Applicant avers that the Respondents' conduct amounts to deliberate, willful and continuous contempt of court, undermining the dignity and authority of the Court and denying the Applicant the fruits of the orders issued. The Applicant contends that there is no other effective means of enforcing the said orders except through contempt proceedings, and urges the Court, in the interest of justice and preservation of the rule of law, to cite and punish the contemnors for contempt.

1st Respondent's Replying Affidavit:

5. In opposition, the 1st Respondent filed a replying affidavit sworn on 16th September 2025 by Dr. Mamo B. Mamo, EBS, the Director General of the National Environment Management Authority (NEMA). He reiterated the contents of the earlier replying affidavit regarding NEMA's statutory role under Section 9 of the Environmental Management and Coordination Act (EMCA), which is to exercise general supervision and coordination over environmental matters.
6. He avers that waste management and disposal functions are primarily vested in county governments under *the Constitution*, as affirmed in *Martin Osano Rabera & another v Municipal Council of Nakuru & 2 others* and *Republic v NEMA & Another ex parte Philip Kisia & City Council of Nairobi*, and that NEMA's role is supervisory, stepping in only when lead agencies fail to act.
7. He further states that NEMA issued environmental restoration orders to county governments in July 2024 and March 2025, requiring the removal of waste from undesignated dumpsites. Following the court order of 1st April 2025, an inspection carried out on 13th May 2025 showed that dumping had ceased and that the 2nd Respondent had commenced compliance measures.



8. Further, he deposes that NEMA has acted within its lawful mandate and in compliance with the court orders, and that the contempt proceedings against the 1st Contemnor, who is merely the Board Chairperson responsible for overall leadership rather than execution of NEMA's mandate, are misguided and should not issue.

2nd Respondent's Grounds of opposition

9. The 2nd Respondent filed grounds of opposition dated 1st October 2025 against the application, stating that it is vexatious, bad in law and an abuse of the Court. That the orders sought cannot be enforced against the party cited as 2nd Contemnor, who has not been a party to the proceedings, and it offends the provisions of the *Government Proceedings Act* in regard to execution against a government and does not disclose a cause of action.

Submissions:

10. The Applicants filed submissions dated 1st September 2025, stating that the issue for determination is whether the Respondents' failure to comply with the orders of this Court issued on 1st April 2025 amounts to wilful contempt warranting committal and the grant of the orders sought. The Court directed the 1st and 2nd Respondents to immediately cease all dumping activities and remove all existing waste and debris from the specified areas in Ectoville Estate.
11. The Applicants submit that these orders were made in the presence of their advocates, were never stayed or set aside, and remain valid and enforceable. Despite service and full knowledge of the orders, the Respondents have neither complied nor filed any response to the contempt application. The Applicant stated that the legal threshold for civil contempt in Kenya was settled in *Samuel M. N. Mweru & Others v National Land Commission & 2 Others (2020) eKLR*, where the Court held that an applicant must prove:
- (i) the terms of the order,
 - (ii) knowledge of the order by the respondent, and
 - (iii) failure to comply.
12. The Applicant further cited the Court of Appeal in *Shimmers Plaza Ltd v National Bank of Kenya Ltd [2015] eKLR*, where it affirmed that knowledge of a court order by an advocate is sufficient for purposes of contempt, and a party cannot plead ignorance where they were represented in court.
13. Similarly, in *Republic v Ahmad Abolfathi Mohammed & Another (2018) eKLR*, the Supreme Court emphasised that court orders are not made in vain and that deliberate disobedience undermines the dignity and authority of the Court and must attract punitive sanctions. They stated that the Respondents' silence and inaction, therefore, amount to a calculated attempt to frustrate compliance and erode the authority of this Court.
14. The Applicants submitted that the purpose of contempt proceedings is to uphold the dignity and authority of the Court and maintain public confidence in the administration of justice, as stated in *Sheila Cassatt Issenberg & Another v Antony Machatha Kinyanjui (2021) eKLR*. That the Respondents' sustained defiance has denied them the fruits of a lawful court order and exacerbated environmental harm in the affected area.



Analysis and Determination:

15. I have read and considered the issues raised in the application supported the supporting affidavit and the replying affidavit and grounds of opposition filed by the respective parties. I have also considered the submissions filed by the Applicant. The central issue for determination is whether the Applicants have proved that Respondents' conduct amounts to willful disobedience of the orders issued on 1st April 2025.
16. The elements to prove there is contempt of court is set out in the case of *Samuel M. N. Mweru & Others v National Land Commission & 2 Others* (2020) eKLR, thus:
 - (i) the existence and terms of the order;
 - (ii) knowledge of the order by the respondent; and
 - (iii) failure to comply with the order.
17. Once these are established, willfulness and bad faith are ordinarily inferred. In the present case, the orders of 1st April 2025 required the 1st and 2nd Respondents to immediately take steps to stop dumping activities at the impugned site. They were also directed to remove all existing waste from the specified areas. These orders have not been stayed, reviewed, or set aside and therefore remain binding.
18. On the question of knowledge, it is not disputed that the orders were made in the presence of counsel for both Respondents and that service was effected on 9th April 2025. In *Shimmers Plaza Limited v National Bank of Kenya Limited* [2015] eKLR, the Court of Appeal held that an advocate's knowledge of a court order is sufficient for contempt proceedings and that a party cannot plead ignorance when represented in court. Similarly, in *Antony Siyuyu Kisiang'ani & Another v Nzoia Out-growers Co. Ltd & 4 Others* [2014] eKLR, the Court observed that once an advocate is aware of the court orders, the client is deemed to have knowledge of them.
19. However, the application as worded is not citing the Respondents for contempt, rather they have joined the chairperson of the 1st Respondent and the Governor of the 2nd Respondent as the persons to be committed for the alleged contempt. There is no dispute that the alleged 1st and 2nd Contemnors are not directly parties to these proceedings. The 1st Respondent deposed that the chairperson of the board of directors is not concerned with its daily operations.
20. By citing the 1st alleged contemnor, the Applicant had a duty to demonstrate that he was aware of the order disobeyed and that his role at the 1st Respondent was capable of implementing the order. Section 10 (14) of EMCA states thus:
 - “(a) The Director-General shall be the chief executive of the Authority and shall subject to this Act, be responsible for the day to day management of the affairs of the Authority.”
21. There is no reason stated by the Applicant why it opted to cite the chairperson of the board of directors who the Act states that the board he chairs is only required to meet at least four times a year. Clearly subsection 14 above providing that the Director General as the one running the 1st Respondent on a daily basis means the 1st alleged contemnor is wrongly sued in this application for contempt.
22. The same scenario applies to the citing of the alleged 2nd contemnor. In the application for injunction, there was an officer of the 2nd Respondent who swore the replying affidavit but who has not been sued as one of the contemnors. It is my considered opinion that the Applicant had a duty which it has not



discharged to show that it was the responsibility of the 2nd contemnor to stop the further dumping and also to remove the already dumped garbage.

23. The The standard of proof in contempt proceedings is higher than on a balance of probability. The breach of the contemtor needs to be specifically defined. In *Re Breamblerale Ltd* [1969] 3 ALL ER 1062 it was stated

“A contempt of court is an offence of a criminal character. A man may be sent to prison. It must be satisfactorily proved.”

24. Therefore, the fact of these alleged contemnors being associated with the 1st and 2nd Respondents without creating a nexus how they were responsible for obeying the impugned orders amounts to no sufficient proof of the offence of contempt. For this reason, I dismiss the application for want of merit.

25. Costs of the application to the 1st and 2nd Respondents.

DATED, SIGNED AND DELIVERED BY UPLOAD ON THE CTS THIS 29TH DAY OF JANUARY, 2026

A. OMOLLO

JUDGE

