



**Wanguyu v Assistant Chief Komarock, North Sub-Location & 7 others (Environment and Land Case E189 of 2020) [2026] KEELC 326 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 326 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE E189 OF 2020**

**AA OMOLLO, J  
JANUARY 22, 2026**

**BETWEEN**

**PETER NJUGUNA WANGUYU ..... PLAINTIFF**

**AND**

**THE ASSISTANT CHIEF KOMAROCK, NORTH SUB-LOCATION ..... 1<sup>ST</sup> RESPONDENT**

**THE CHIEF KOMAROCK ..... 2<sup>ND</sup> RESPONDENT**

**THE ASSISTANT COUNTY COMMISSIONER KAYOLE DIVISION .... 3<sup>RD</sup> RESPONDENT**

**THE DEPUTY COUNTY COMMISSIONER EMBAKASI SUB-COUNTY ..... 4<sup>TH</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 5<sup>TH</sup> RESPONDENT**

**HON CHRIS MTUMISHI (MEMBER OF COUNTY ASSEMBLY KOMAROCK WARD, NAIROBI ..... 6<sup>TH</sup> RESPONDENT**

**RICHARD KIMUYU, CHAIRMAN KOMAROCK RESIDENTS ASSOCIATION ..... 7<sup>TH</sup> RESPONDENT**

**JOHN MWANGI MACHARIA (LEADER KOMAROCK JUA KALI ARTISANS ASSOCIATION ..... 8<sup>TH</sup> RESPONDENT**

**RULING**

1. The plaintiff’s application before court for determination is dated 27/1/2025. It is brought under the provisions of inter alia Section 5 of *Judicature Act*, Order 40, 22 and 51 of the Civil Procedure Rules. The Plaintiff/Applicant pray for orders:



1. Spent
  2. This Honorable Court do immediately issue out Summons to the Assistant Chief, Komarock North Sub-Location, Hon. Chris Mtumishi (Member Of County Assembly Komarock Ward) Chairman Komarock Residents Association John Mwangi Macharia (Leader Komarock Jua Kali Artisans Association) (hereinafter "Contemnors") to appear before the Court on a date to be specified and to Show Cause why (Orders sought in prayer 3 herein should not be issued against themselves in person for contempt and breach of the Court's Orders issued in this case.
  3. The Contemnors be cited for flagrant contempt of the Court and its Judgment and orders and be punished accordingly by a six-month jail term by this Court for breaching the Orders of this Court issued vide the Court's Judgment issued on 13<sup>th</sup> June, 2024 and Decree issued on 16<sup>th</sup> October, 2024 and served on 29<sup>th</sup> October, 2024 by raiding the Plaintiff's home and property being Plot No A-166 (Komarock Youth Jua Kali Artisan Site And Service Scheme stealing everything, chasing away the plaintiff and his family, retaking the premises and repainting the suit premises with National Colours and reinstalling therein the office of the Assistant Chief in utter disobedience of the Judgment and Orders of this Honourable Court which had been obeyed by the Deputy County Commissioner handing the premises back to the plaintiff upon service of the Decree and Judgement of the Court.
  4. The Orders sought herein be enforced through and by the Officer Commanding Station, Kayole Police Station, Nairobi.
  5. The costs of this Motion in any event shall be borne by the Contemnors.
2. The application is premised on the grounds that:
- a. In initial obedience to the court order, the Deputy County Commissioner handed back the premises to the Plaintiff.
  - b. The Plaintiff renovated the premises and moved in with his family as his family residence.
  - c. On 10<sup>th</sup> January, 2025, the Contemnors invaded the premises once again, threw out the Plaintiff's family, vandalised and stole all the Plaintiff's properties, repainted the premises and reinstalled as the Assistant Chief's office in utter disobedience of court orders with impunity.
3. In the supporting affidavit, the applicant deposes that the Deputy Commissioner handed back the premises to him at the end of November 2024.
  4. That on 10/1/2025, the contemnors invaded the premises and threw him and his family out. Thereafter they repainted the premises and re-installed it as chief's office. The Applicant avers further that the Assistant Chief is sitting there undertaking her operations in utter disobedience of the court orders. He annexed undated and not legible photos as PN5 to support the case.
  5. The 1<sup>st</sup> – 4<sup>th</sup> Respondent /Contemnors each filed Replying affidavits denying the claim. The 1<sup>st</sup> Respondent deposes that she vacated the suit premises on 12/11/2024 to the chief's office. She affirms receiving a call on 10/1/2025 at 3pm from a member of the public informing her that some people had invaded the premises.
  6. She told the chief and together they rushed to the place. On arrival, they found an angry crowd gathered outside shouting this is our office. That they managed to calm the crowd before they were shortly joined by the OCS Kayole Police Station.



7. She denied that her office was re-installed and denied any public function done therein since she vacated. She has denied violating the court order and urged the court to dismiss the application.
8. The 2<sup>nd</sup> Respondent reiterated the averments by the 1<sup>st</sup> Respondent. He deposes that the Applicant has already mentioned the perpetrators of the alleged contempt. He contends there is nothing linking him to the contempt and urges the court to dismiss the application.
9. The 3<sup>rd</sup> Respondent deposes that the application is premised on the actions of some members of the public who invaded the suit premises and evicted the plaintiffs. That he was not privy to the events of 10/1/2025 and was only notified by a call from the 1<sup>st</sup> Respondent.
10. The 4<sup>th</sup> Respondent also deposed that they adhered to the judgment by directing the 1<sup>st</sup> Respondent to vacate the suit premises. Mr Wamulevu further deposes the 1<sup>st</sup> Respondent has not returned to the premises. Consequently, there is no reason to charge them with contempt.
11. In response to depositions in the Replying Affidavits, the Applicant filed a supplementary affidavit which did not have 2<sup>nd</sup> page. He deposes that the 1<sup>st</sup> – 4<sup>th</sup> Respondents are lying on oath. That the evidence in support of the motion shows the 1<sup>st</sup> Respondent in full government uniform hosting a meeting outside his house.
12. There is no continuation of the supplementary affidavit filed in the CTS after paragraph 5.
13. It is only the plaintiff who, filed written submissions dated 8<sup>th</sup> July 2025. In brief, the Applicant states that the contemnors are perjuring themselves through their replying affidavit as the premises has been crudely rebranded Chief's Office and repainted with colours identifying it as the Assistant Chief's office.
14. The plaintiff submits that the Respondents stopped occupying the premises after the application was filed. That the Respondents have engaged goons to ensure the plaintiff does not occupy his property. That efforts to get security and to remove the goons have been futile.
15. The plaintiff cited the case of Johnson vs Grant which defined the actions of contempt as:

“...The phrase 'contempt of court' does not in the least describe the true nature of the class of offence with which we are here concerned.... The offence consists in interferency with the administration of the law; in impeding and perverting the course of justice..... it is not the dignity of court which is offended - a petty and misleading view of the issues involved.... It is the fundamental supremacy of the law which is challenged... ”
16. He urged the Court to find the Respondents guilty of contempt and punish them. He cited the case of TSC vs KNUT & 2 others (2013) eKLR for the proposition that punishing for contempt is about preserving and safeguarding the rule of law.

### **Analysis and Determination**

17. The Plaintiff/Applicant wants the court to find all the Respondents guilty of contempt for disobeying the decree issued on
18. The Applicant admits that upon service of the decree and judgment upon the 1<sup>st</sup> – 4<sup>th</sup> Respondents, they complied and the 1<sup>st</sup> Respondent moved out towards the end of November 2024. The 1<sup>st</sup> Respondent stated that she moved out on 12/11/2024 and has never returned to the impugned premises.



19. The burden to prove that each of the Respondents is guilty of contempt is on the shoulders of the Applicant (read sections 107-109 of the Evidence Act). Further, he must show that proof on a standard beyond the balance of probabilities.
20. The question this court must determine is whether or not the Applicant has met that threshold of proof. From the depositions made, there is no dispute that the Applicant was on 10/1/2025 evicted from the suit premises. What is in dispute is whether or not the Respondents are the ones who evicted him. In arguing that it is the Respondents who evicted him, he annexed statements made to the police and photographs taken showing the rebranding of the premises to the office of the Chief.
21. The Applicant in his written statement to the police said that at the time of the incident, he was away for an appointment at Embakasi Girls Secondary School. He added that his daughters had also gone to visit their aunt. Thus, he does not mention any family member present when the breaking in and eviction took place.
22. The statement also mentions that prior to the incident, a Ms Pauline Wambui from the MCA's office had circulated a post on the Komarock Community Social forum of intention to recover the Assistant Chief's office on Friday at 2pm. He blames the MCA who despite being aware of this post did nothing.
23. The plaintiff further states that he was informed (no name given) that the planned raid was to be facilitated by the area chairman of Nyumba Kumi Mr Salusi Kinywa, John Mwangi working at the Chief's Office, Kariuki Mwangi and others from the Nyumba Kumi and MP's office.
24. The Statement recorded with the police does not mention the involvement of the 1<sup>st</sup> – 4<sup>th</sup> Defendants in the planning of the raid and or conducting the raid itself. Even the names of persons given as facilitating the raid were given to the Applicant by a person whose name is not disclosed and who has also not sworn affidavit to corroborate the assertions.
25. Further, the plaintiff annexed photographs as PN5. The photos are so dark that the only thing discernible are the words "chief's office". The photos bear no date when they were taken. On the face of the photos, it is difficult to tell who wrote the words "chief's office" and or who repainted (no colour visible) to government colours as alleged by the Applicant.
26. Thus, the Applicant has not created any nexus between his eviction and the role of the 1<sup>st</sup> – 4<sup>th</sup> Defendants to the required standards. In regard to the claim against the 6<sup>th</sup> Respondent, (area MCA) the Applicant does not speak whether he was served with the court decree. Neither was a copy of the post shared in the Komarock social forum annexed or proof that Ms Pauline Wambui works for the 6<sup>th</sup> Respondent.
27. Similarly, besides asserting that the 7<sup>th</sup> and 8<sup>th</sup> Respondents facilitating the raid, no evidence of the nature of the facilitation was presented to court. The applicant does not demonstrate that these Respondents were on the scene on the 10<sup>th</sup> January 2025.
28. I have analysed the evidence presented in support of the motion but find it does not meet the threshold to warrant the conviction of any of the Respondents for violating the court decree. The result is that the application is dismissed with costs to the 1<sup>st</sup> – 5<sup>th</sup> Respondents.

**DATED, SIGNED & DELIVERED AT NAIROBI VIRTUALLY, THIS 22<sup>ND</sup> DAY OF JANUARY 2026.**

**A. OMOLLO**

**JUDGE**

