



**Kenya County Government Workers Union v County Government of Bomet & another (Cause E016 of 2022) [2026] KEELRC 328 (KLR) (6 February 2026) (Ruling)**

Neutral citation: [2026] KEELRC 328 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU  
CAUSE E016 OF 2022  
AN MWAURE, J  
FEBRUARY 6, 2026**

**BETWEEN**  
**KENYA COUNTY GOVERNMENT WORKERS UNION ..... CLAIMANT**  
**AND**  
**COUNTY GOVERNMENT OF BOMET ..... 1<sup>ST</sup> RESPONDENT**  
**COUNTY PUBLIC SERVICE BOARD OF BOMET ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. Before this Honourable Court is a Notice of Motion dated 4<sup>th</sup> August 2025 filed under Certificate of Urgency during the August recess, where the Claimant/Applicant is seeking the following orders that:
  1. Spent
  2. The following officers of the Respondents:
    - a. Governor Bomet County-Hillary Barchok;
    - b. County Secretary Bomet County-Simon Langat;
    - c. County Executive Committee Member in charge of Finance- Milca C. Rono;
    - d. Director Human Resources- Erick Rono;
    - e. Chairperson of Public Service Board Bomet County- Eng. Alexander Ngeno;
    - f. CEO of Public Service Board, Bomet County- Emmy Chesang;
    - g. County Public Service Board Members-
      - i. David Tuei;
      - ii. Isaiah Byegon; c



- iii. Paul Kirui;
- iv. Cicilia Ngetich; and
- v. Milicent Soi.

Be summoned before this Honourable Court to show cause why they should not be cited for contempt and committed to civil jail for blatantly failing to comply with the court orders given by Hon. Nderitu J. on 28<sup>th</sup> October, 2022, as well as Orders issued by Hon. Justice Warsame, Hon. Justice Kiage and Hon. Justice Ochieng on 14<sup>th</sup> May, 2024 in Court of Appeal Civil Application Number COACAPPL E029 of 2024 Bomet County VS County Public Service Board of Bomet AND Kenya County Government Workers Union as well the Judgment in Civil Appeal Number 84 of 2024 Bomet County VS County Public Service Board of Bomet and Kenya County Government Workers Union.

3. That on failing to show necessary cause, the said officers be committed to civil jail for a maximum period of six (6) months for contempt of this Honourable Court's orders issued by Hon. Nderitu J. on 28<sup>th</sup> October, 2022, as well as Orders issued by Hon. Justice Warsame, Hon. Justice Kiage and Hon. Justice Ochieng on 14<sup>th</sup> May, 2024 in Court of Appeal Civil Application Number COACAPPL E029 of 2024 Bomet County VS County Public Service Board of Bomet AND Kenya County Government Workers Union as well the Judgment in Civil Appeal Number 84 of 2024 Bomet County VS County Public Service Board of Bomet AND Kenya County Government Workers Union.
  4. Officer Commanding Bomet Police Station, do execute Orders 2 and 3 herein.
  5. Any other or further orders as this Honourable Court deems fit and appropriate.
  6. Costs of this application be borne by the Respondents.
  7. Any other or further orders do issue in the interest of justice.
  8. Costs be in the cause.
2. The application is expressed to be brought under section 5(1) of the Judicature Act, Order 42 Rule 6 and 51 of the Civil Procedure Rules, section 3A and 63 of the Civil Procedure Act, and all other enabling provisions of law.

#### **Claimant/Applicant's supporting affidavit**

3. The application is supported by the affidavit of Roba S. Duba, the Claimant/Applicant's General Secretary, dated even date as the application.
4. The Claimant/Applicant stated that a judgment was delivered on 29<sup>th</sup> February 2024 in this case, where Justice Nderitu found that the Respondents violated the grievants' constitutional rights under Articles 41, 47, and 50 by issuing disguised termination letters and interfering with their employment terms. The court quashed the notices, barred recruitment of replacements, and ordered payment of pending salaries and benefits within 30 days.
5. Despite this, the Claimant/Applicant stated that the Respondents, habitual contemnors, failed to comply, prompting appeals to the Court of Appeal.
6. The Claimant/Applicant stated that in the Court of Appeal vide COACAPPL E029 of 2024, the appellate court ordered maintenance of the status quo pending determination, but the respondents



still disobeyed. Ultimately, in COACA E084 of 2024, the Court of Appeal dismissed the 1<sup>st</sup> Respondent's appeal with costs, stressing that devolution under Article 174 of *the Constitution* does not permit replacing serving employees with political supporters. The Respondents' continued defiance of court orders has prejudiced the claimant's members and underscores their persistent contemptuous conduct.

7. The Claimant/Applicant stated that in COACA E084 of 2024, the court identified two key issues: whether the appellant's right to be heard was violated and whether an employer–employee relationship existed between the grievants and the County Government of Bomet. On the first issue, the court found that the County Government failed to file a defence despite being given the opportunity, meaning its right to be heard was not violated. On the second issue, the court held that although the grievants initially had fixed-term contracts, they continued working for over seven years with the Respondent's consent and were consistently paid salaries and benefits, thereby establishing an implied permanent employment relationship. The court criticized the Respondent's contradictory arguments, claiming the grievants were not employees while simultaneously extending their contracts and inviting them to reapply for positions, describing the notices of 30<sup>th</sup> September 2022 as a “Trojan horse” termination letter. Ultimately, the court concluded that any termination had to comply with the law and that the Respondents ought to have formalized the grievants' employment in writing under the *Employment Act*, rendering the purported contract extension letters legally ineffective.
8. The Claimant/Applicant stated that the Respondents' continued defiance of court orders has created urgency in this matter.
9. Despite the judgment of 29<sup>th</sup> February 2024 requiring payment of salaries and emoluments within 30 days, the Claimant/Applicant stated that the Respondents have failed to remit Kshs.469,372,860/= owed to the claimant's members as of July 2025. The Respondents also violated injunctions issued on 28<sup>th</sup> October 2022 and confirmed on 22<sup>nd</sup> March 2023, which prohibited altering employment terms, reviewing salaries, or recruiting replacements.
10. Nevertheless, the Claimant/Applicant stated that the Respondents proceeded with recruitment exercises across multiple departments in June 2024, undermining the rights of the grievants under Article 43 of *the Constitution*. This is the fourth contempt application filed, following earlier ones in 2023 and 2024, underscoring the respondents' habitual disregard for court orders. The subsisting injunctions required maintenance of the status quo and barred interference with their members' employment, yet the Respondents deliberately ignored them, exacerbating prejudice and injustice against the affected employees.
11. The Claimant/Applicant stated that the Respondents' conduct reflects a persistent pattern of contempt for court authority. In ELRC Cause No. 225 of 2015 at Kericho, Justice D.K. Marete had already directed them to rationalize staff and only advertise positions not filled by the claimant's members, but instead, they victimized employees and forced them to reapply for their own jobs. The same court cited senior county officials, including the Governor, HR Manager, Payroll Manager, and County Secretary, for contempt in 2016 after they defied orders. This history of impunity has continued, as the respondents have ignored subsequent injunctions and status quo orders issued in 2022 and 2024, and proceeded to advertise positions occupied by the Claimant's members, effectively amounting to constructive dismissal.
12. Despite repeated demand letters from the advocates, Claimant/Applicant stated that the Respondents have offered no justification and remain in breach as their actions undermine the dignity of the court, flout the rule of law, and warrant immediate intervention, including possible committal of the cited officers to civil jail for blatant disobedience of court orders.



### **1<sup>st</sup> Respondent replying and further affidavits**

13. The 1<sup>st</sup> Respondent opposed the application vide replying affidavit sworn by Simon Lang'at, the 1<sup>st</sup> Respondent County Secretary, dated 29<sup>th</sup> September 2025 and a further replying affidavit dated 29<sup>th</sup> October 2025.
14. The 1<sup>st</sup> Respondent stated that the Governor, Milcah C. Rono, Erick Rono, and himself were wrongly lumped together without specific allegations of defiance and denied being habitual contemnors.
15. While acknowledging the ELRC judgment of 29<sup>th</sup> February 2024 and the Court of Appeal's dismissal of the respondents' appeal on 18<sup>th</sup> July 2025, the 1<sup>st</sup> Respondent maintained that compliance was underway but delayed due to administrative and budgetary constraints, including the adoption of a unified HR/payroll system.
16. The 1<sup>st</sup> Respondent contended that the arrears figure of Kshs. 469 million was not expressly ordered by the court, that contempt proceedings must follow due process, and that no penal notice or personal service of orders had been effected.
17. The 1<sup>st</sup> Respondent further asserted that they had not advertised or replaced positions held by the Claimant's members and were actively working to reinstate affected employees and verify arrears.
18. In a further affidavit, the 1<sup>st</sup> Respondent states that in the disputes all claims made by the Claimant emphasizes that enforcing the judgment orders would necessarily involve the National Government and other entities who are not parties to the current proceedings.
19. The 1<sup>st</sup> Respondent stated that the Human Resource Department found the Claimant's files incomplete, lacking details such as job groups and academic or professional certificates needed for processing Unique Personal Numbers (UPNs). As a result, the files were returned to the County Public Service Board for correction.
20. Once the Board provides the missing information, the 1<sup>st</sup> Respondent will forward the Claimants/Applicants' names to the Directorate of Personnel Services Management for issuance of UPNs, enabling their inclusion in the payroll.
21. The 1<sup>st</sup> Respondent stated that the Claimant/Applicant is bound by its pleadings, which identified 127 members affected by the 1<sup>st</sup> Respondent's letter dated 04/09/2022.
22. Ultimately, the 1<sup>st</sup> Respondent urged the court to dismiss the contempt application as premature, procedurally defective, and an abuse of process, insisting there had been no willful disobedience of court orders.

### **2<sup>nd</sup> Respondent replying affidavit and supplementary affidavit**

23. The 2<sup>nd</sup> Respondent filed a replying affidavit and supplementary affidavit sworn on 20<sup>th</sup> September 2025 and 24<sup>th</sup> October 2025, respectively, by Eng. Alexander Kiprono Ng'eno, Chairperson of the Bomet County Public Service Board.
24. In the replying affidavit, the 2<sup>nd</sup> Respondent denied contempt allegations, clarifying that only 125 claimants were valid due to duplication, with 110 presenting documents for reinstatement, while others were already on permanent terms or failed to appear.



25. The 2<sup>nd</sup> Respondent emphasized that the reinstatement letters had been issued, compliance was ongoing, and delays were caused by the need to process Unified Payroll Numbers (UPNs) after the manual payroll system was phased out.
26. The 2<sup>nd</sup> Respondent also stated that the Claimant/Applicant's arrears computation, arguing it was based on an inflated list of 595 union members not part of the case, and maintained that no positions held by claimants were advertised, urging dismissal of the contempt application.
27. In the supplementary affidavit, the 2<sup>nd</sup> Respondent stated that it was actively implementing the ELRC judgment of 29<sup>th</sup> February 2024.
28. The 2<sup>nd</sup> Respondent stated that it corrected errors in the Claimant/Applicant list, removing one wrongly included individual and adding another omitted, and noted that appointment letters were issued for reinstatement on permanent and pensionable terms, except for one claimant who had reached retirement age.
29. The 2<sup>nd</sup> Respondent also stated that the correspondence with the County Secretary in October 2025 was regarding academic and professional documents required for UPN processing.
30. The 2<sup>nd</sup> Respondent stressed that the reinstatement was being carried out without altering earlier contract terms, and reaffirmed that the 2<sup>nd</sup> Respondent was acting in good faith to comply with court orders.
31. Parties canvassed the application by way of written submissions.

#### **Claimant/Applicant's written submissions**

32. The Claimant relied on section 5(1) of the [Judicature Act](#) provides as follows:

“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.” Section 29 of the Environment and Land Court is clear to the effect that: “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”

33. The Claimant/Applicant submitted that it had sought to have several senior officers of the Respondents cited and committed for contempt for failing to comply with court orders issued on 28<sup>th</sup> October 2022, 14<sup>th</sup> May 2024, and the judgment of 29<sup>th</sup> February 2024, as upheld by the Court of Appeal on 18<sup>th</sup> July 2025. The Claimant/Applicant argued that the Respondents had clear notice of the orders, yet willfully disobeyed them by failing to pay salaries and benefits and by advertising positions occupied by union members.
34. The Claimant/Applicant relied on the case of *Githiga & 5 others v Kiru Tea Factory Company Ltd* [2023] KESC 41 (KLR), the Supreme Court held that contempt of court proceedings are quasi-criminal in nature and therefore require a higher standard of proof than ordinary civil cases. Courts must adopt fair procedures that give alleged contemnors full opportunity to defend themselves, The Supreme Court cited the cases of *Republic v Ahmad Abolfathi Mohammed & another* SC Criminal Application No. 2 of 2018[2018] eKLR, the Supreme Court stressed that contemnors undermine the authority of courts and the rule of law, which cannot be tolerated, and *Mutitika v Baharini Farm Limited* [1985] KLR 229, 234, the Court of Appeal held that the standard of proof in contempt cases



must be higher than the balance of probabilities, though not as strict as beyond reasonable doubt, since contempt is quasi-criminal but not purely criminal.

35. In *M’Mukira & another v Magiri & another* [2024] KEELC 5736 (KLR) the court cited the case of *Samuel M. N. Maweu & others v National Land Commission* (2020) eKLR where the court set out the four essential ingredients for proving contempt of court. First, the order must be clear, unambiguous, and binding on the alleged contemnors. Second, the contemnors must have knowledge of or proper notice of the order. Third, they must have acted in breach of the order. Finally, the breach must be shown to be willful and deliberate. In short, contempt is established where a party knowingly and intentionally disobeys a clear and binding court order.
36. In *Kariuki v John* [2024] KEELC 569 (KLR) stated as follows as regards the clarity of Court orders:

“In view of the foregoing, my answer to issue Number one [1] is to the effect that the terms and import of the decree that was extracted and sealed on the 19<sup>th</sup> December 2022, are indeed explicit and unequivocal. Consequently, there cannot be any debate as to the construction and/or comprehension of the meaning of the orders of the court.”
37. The Claimant also relied on the case of *Shimmers Plaza Limited v National Bank of Kenya Ltd* [2013] KECA 359 (KLR) the Court of Appeal held that knowledge of a judgment or order by an advocate is sufficient for contempt proceedings. Where an advocate is present in court representing a party when orders are issued, it is presumed indeed irrefutably that the advocate reports back to the client. Therefore, the contemnor cannot deny awareness of the order, since representation by counsel binds them to knowledge of all orders made in their presence.
38. In cases of *Kenya County Government Workers Union Bungoma Branch v County Public Service Board of Bungoma & another* [2025] KEELRC 2689 (KLR), *Ogutu v Budaha* [2024] KEELC 340 (KLR), and *Wafula v Board of Management Masima High School & another* [2024] KEELRC 1321 (KLR) reinforce that disobedience, even during appeal, is willful contempt.
39. In conclusion, the Claimant/Applicant submitted that the Respondents’ officers deliberately disobeyed lawful orders, undermined the dignity of the court, and should therefore be punished by committal to civil jail, awarded with costs of the application.

### **1<sup>st</sup> Respondent’s written submissions**

40. The 1<sup>st</sup> Respondent submitted that the Claimant/Applicant’s contempt application is defective, lacks jurisdiction, and unfairly targets officers who are not accounting officers under the law. The 1<sup>st</sup> Respondent contended that contempt proceedings must be instituted separately in each court file.
41. The 1<sup>st</sup> Respondent relied on the cases of *Christine Wangari Gachege v Elizabeth Wanjiru Evans & 11 others* [2014] KECA 840 (KLR), which affirmed that English Civil Procedure Rules apply in Kenya under section 5(1) of the *Judicature Act*. The 1<sup>st</sup> Respondent further argue that execution against government entities is governed by the *Government Proceedings Act* and Civil Procedure Rules, barring direct enforcement against the cited officers.
42. On joinder, the 1<sup>st</sup> Respondent rely on statutory provisions such as section 30(2) and 44(3) of the County Government Act and sections 196–197 of the *Public Finance Management Act*, as well as *Council of Governors & 6 others v Senate* [2015] KEHC 7448 (KLR), which held that only designated accounting officers are responsible for financial compliance.



43. On proof of contempt, the 1<sup>st</sup> Respondent relied on the cases of Cecil Miller v Jackson Njeru & Another [2017] KEHC 1499 (KLR), and Justus Kariuki Mate & Jim G. Kauma v Martin Nyaga Wambora & Jim G. Kauma [2014] KECA 590 (KLR), emphasizing that contempt requires proof beyond doubt of willful disobedience with knowledge of the order. The 1<sup>st</sup> Respondent also relied on Molly Wambui Kiragu (suing as Administrator of the Estate of the late Samuel Kiragu Michuki) v Governor - Nairobi City County & another [2018] KEHC 9448 (KLR), Sam Nyamweya & 3 others v Kenya Premier League Limited & 2 others [2015] KEHC 6265 (KLR), and Samuel M. N. Mweru & Others v National Land Commission & 2 others [2020] KEHC 9233 (KLR), all of which reiterated that contempt demands clear, unambiguous orders, knowledge, breach, and deliberate conduct.
44. The 1<sup>st</sup> Respondent maintains that they have made efforts to comply, including vetting 127 members and transitioning them into contracts, and that delays are due to systemic payroll and national government processes.
45. The 1<sup>st</sup> Respondent conclude that the orders are not express or unambiguous, the Claimant has failed to meet the high threshold for contempt, and therefore the application should be dismissed with costs.

## **2<sup>nd</sup> Respondent's written submissions**

46. The 2<sup>nd</sup> Respondent submitted that interim status quo orders issued by Justices Warsame, Kiage, and Ochieng in Court of Appeal Civil Application E029 of 2024 (Bomet County v Kenya County Government Worker) lapsed once the related appeal in Nakuru COA E84 of 2024 was determined, and thus cannot form the basis of contempt proceedings. The judgment in Nakuru Civil Appeal E84 of 2024 arising from an appeal against Kericho ELRC E016 of 2022 was dismissed and left nothing for execution.
47. The 2<sup>nd</sup> Respondent further submitted that in England, contempt matters are governed by the *Contempt of Court Act*, 1981 requiring precise definition of breaches where liberty is at stake, as seen in *Chiltern District Council v Keane* [1985] Law Society's Gazette, 2<sup>nd</sup> May 1567. In *Re Breamblevale Ltd* [1969] 3 All ER 1062, Lord Denning emphasized that contempt is criminal in nature and must be proved beyond reasonable doubt.
48. In *Mutitika v Baharini Farm Ltd* [1985] KECA 60 (KLR) the Court of Appeal stated that contempt of court, being quasi-criminal in nature, must be proved with strictness consistent with the gravity of the charge higher than a balance of probabilities but not exactly beyond reasonable doubt. Courts caution against using contempt proceedings as a substitute for civil remedies, stressing that the jurisdiction to commit for contempt is broad and potentially arbitrary, and should therefore be exercised sparingly and only when no other remedy is available. Judges are urged to consider less severe measures, such as injunctions, instead of committal or sequestration.
49. Further, in *Sheila Cassatt Issenberg & another v Antony Machatha Kinyanjui* [2021] KEHC 5692 (KLR), cited the case of *Carey v Laiken* 2015 SCC 17, the court clarified that civil contempt requires proof of three elements: (i) the breached order must be clear and unequivocal, (ii) the alleged contemnor must have actual knowledge of the order, and (iii) the breach must be intentional, either by doing what is prohibited or failing to do what is compelled.
50. The 2<sup>nd</sup> Respondent relied on section 57 of the County Governments' Act, where the County Public Service Board being a corporate body with perpetual succession and a seal, meaning it exists as a separate legal entity. To execute against such a body, the corporate veil must first be lifted. In *Katsuri Limited v Kapurchand Depar Shah* [2016] KEHC 6447 (KLR), the court emphasized that contempt proceedings, though civil, carry quasi-criminal consequences and must be proved to a higher standard



than ordinary civil cases, with deliberate conduct shown. Importantly, directors are not personally liable for the company's actions unless the veil is lifted, and committal for contempt should only be a last resort. In this case, the applicant failed to seek lifting of the corporate veil, making attempts to execute against individual members of the 2<sup>nd</sup> Respondent procedurally misdirected.

51. The 2<sup>nd</sup> Respondent submitted that it has complied with the decree in Kericho ELRC E016 of 2022, which concerned 127 claimants, and criticizes the claimant for introducing “strangers” in subsequent compliance lists that differ from the original list of claimants. The 2<sup>nd</sup> Respondent argued that only the grievants named in the pleadings are relevant, and parties are bound by those pleadings. The 2<sup>nd</sup> Respondent submitted that the compliance is evidenced by affidavits sworn on 29<sup>th</sup> September and 24<sup>th</sup> October 2025. The decree itself granted several orders:
- (a) declarations that the grievants' constitutional rights under Articles 41, 47, and 50 were violated;
  - (b) nullification of termination notices disguised as contract extensions;
  - (c) prohibition against altering terms of employment unlawfully;
  - (d) restraint against recruiting replacements for the grievants; (e) an order to pay all pending salaries and benefits within 30 days; and
  - (f) costs of the cause to be borne jointly and severally by the respondents.
52. The 2<sup>nd</sup> Respondent urged the court to dismiss the application as the it had complied with the judgment.

### **Analysis and determination**

53. The court has considered the application, the affidavits together with the submissions by counsel;
- 1. The issue for determination is whether the officers cited for contempt are culpable.
  - 2. Should costs be awarded to the Claimants.
54. The court reiterates section 5 of the *Judicature Act* in the earlier part of this ruling which explains that both the High Court and Court of Appeal in Kenya have the same authority to punish contempt of court as the High Court of Justice in England, including protecting the authority of subordinate courts.
55. In *Kenya National Union of Teachers & 2 others v Teachers Service Commission* [2018] KECA 214 (KLR) the Court of Appeal cited the case of *Commercial Bank of Africa Limited v Isaac Kamau Ndirangu* [1992] eKLR where Muli, JA stated:
- “It is imperative that orders of the court must be obeyed as a cardinal basis for endorsement of judicial authority and dignity.
- To do otherwise would erode the dignity and authority of the courts.”
56. In *Githiga & 5 others V Kiru Tea Factory Company Ltd*(supra), the Supreme Court held that contempt of court proceedings are quasi-criminal in nature and therefore require a higher standard of proof than ordinary civil cases. In this instant case, the Claimant/Applicant contended that it had applied to have several senior officers of the Respondents cited and punished for contempt due to their failure to comply with court orders issued on 28<sup>th</sup> October 2022, 14<sup>th</sup> May 2024, and the judgment delivered on 29<sup>th</sup> February 2024, which was later affirmed by the Court of Appeal on 18<sup>th</sup> July 2025. It



was argued that despite having clear notice of these orders, the Respondents deliberately disregarded them by withholding salaries and benefits and by advertising positions already held by union members.

57. (S1) In the case of Samuel M.n. Maweu & Others -vs- National Land Commission (2020) eKLR the principles for an applicant before the court to be found guilty of contempt are as follows: -

- i. i. The terms of the order were clear, unambiguous and binding on the citees.
- ii. The citees had knowledge of or proper notice of the terms of the order.
- iii. The citees acted in breach of the terms of the order.
- iv. The conduct was wilful and deliberate.

58. The Respondents were well aware of the court orders issued on 22<sup>nd</sup> March 2023 by Justice D. Nderitu and further in the Civil Appeal Application 029/2024 which were binding on the Respondents' officials. The decision of the Court of Appeal Civil Appeal 084/2024 the court upheld the High Court decision of 29<sup>th</sup> February 2024.

59. The 1<sup>st</sup> Respondent in his Replying affidavit dated 29<sup>th</sup> September 2025 affirms that the Governor of Bomet and himself (Simon Langat the County Secretary of the 1<sup>st</sup> Respondent) were already initiating the process of complying with the judgment delivered on 29<sup>th</sup> February 2024.

60. It is clear the Respondents are aware of the court's judgments and there is no ambiguity in the judgment.

61. Further, the County Secretary affirms they have embarked on verifying the number of employees referenced and have found are 128 and not 127 as number 60 appears twice. This seems to be confusion though and should probably be 127 not the other way round.

62. The other limb as to whether the Respondents and citees had notice and knowledge of orders the court has shown that they were well aware of the orders even as per their admissions. Further, the Respondents were well represented by their counsels and cannot be heard to say they were not informed of the orders.

63. In the Court of Appeal case Civil Appeal 33 of 2012 Simmers Plaza limited -vs- National Bank of Kenya Limited 2020 KECA (KLR) court stated: -

“Would the knowledge of the judgment or order by the advocate of the alleged contemnor suffice for contempt proceedings? We hold the view that it does. This is more so in a case such as this one where the advocate was in Court representing the alleged contemnor and the orders were made in his presence. There is an assumption which is not unfounded, and which in our view is irrefutable to the effect that when an advocate appears in court on instructions of a party, then it behoves him/her to report back to the client all that transpired in court that has a bearing on the client's case.”

64. As to whether the Respondents disobeyed the orders deliberately, the court would find the same is the position. The orders in issue were issued as early as October 22<sup>nd</sup> 2022.

The Respondents admitted they were aware of the judgments and were in the process of initiating implementation of the orders.

The court would now require the officers to appear in court and explain how far they have gone in implementing those court orders.



65. The Secretary has admitted they failed to honour the court orders due to circumstances beyond their control together with the governor. This is as per his affidavit dated 29<sup>th</sup> September 2025. The court finds the averments of the Respondents quite confusing. They admit they are aware of what is expected of them on the one hand and on the other hand, they deny liability.

66. The officers of the Respondents cannot deny liability as they are the engine of the County Government. They submit that the Claimants should lift the corporate veil. The court does not agree with their averments.

In the case of Kenya County Government Workers Union Bungoma Branch -vs- County Public Service Board & Another the court disagreed with Respondents in delaying payments of members and was assertive in finding officers of County Government of Bungoma and Bungoma Public Service Board to be in contempt.

67. In this case, the court finds the Respondent disobeyed court orders issued by Justice David Nderitu's vide his judgment of 29<sup>th</sup> February 2024 where he found the Respondents had violated employees' constitutional rights by issuing disguised termination letters and interfering with their terms of employment, leading the court to quash the notices, bar recruitment of replacements, and order payment of salaries and benefits within 30 days. Despite these court orders, the Respondents failed to comply and continued their defiance even after the Court of Appeal, in COACAPPL E029 of 2024, directed maintenance of the status quo. Ultimately, in COACA E084 of 2024, the appellate court dismissed the 1<sup>st</sup> Respondent's appeal with costs, emphasizing that devolution cannot be used to replace serving employees with political supporters. The Respondents' actions have therefore prejudiced the Claimant's members and highlighted their habitual contempt of court.

68. In analysing the pleadings in the application, submissions and case laws it is my finding that the application dated 4<sup>th</sup> August 2025 is merited and is allowed.

69. The prayers numbers 2 - 4 aforesaid in the application are therefore granted and a report is to be received before this court on 26<sup>th</sup> February 2026.

70. Costs of the application to be paid to the Claimant.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 6<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.



A signed copy will be availed to each party upon payment of Court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**

