

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT VIHIGA**  
**SUCCESSION CAUSE NO 97 OF 2021**  
**IN THE MATTER OF THE ESTATE OF PILA MUSA ANG'AHA ALIAS**  
**PILA ANG'AHA**

**ANNE WAKA OYALO.....PETITIONER**

**VERSUS**

**DAMARIS ONEA OKINDA.....OBJECTOR**

**SENTENCE**

1. In its Ruling of 28<sup>th</sup> January 2026, this court cited the Objector herein for contempt of court for having disobeyed the order of this court that was issued on 30<sup>th</sup> April 2024.
2. In her mitigation, the Objector expressed remorse and told this court that she was a widow the breadwinner of her family and suffered from ill-health. She averred that she broke her leg after she was beaten by some people. She added that she relied on farming to take care of her children, one of whom was at home awaiting to join College.
3. She pointed out that if she had indeed violated the order of 30<sup>th</sup> April 2024, then the purported disobedience was not intentional rather it was due to ambiguity of the orders as he did not know which order she was to follow. She made reference to the orders of 16<sup>th</sup> December 2024, 25<sup>th</sup> February 2025 and 16<sup>th</sup> December 2025 and said that she did not know that she was not supposed to cultivate the portion that measured 0.62 ha. She explained that she cleared the maize plantation until where the toilets were as had

been directed by the court. She asked the court to be lenient and show her mercy because if she was sent to prison, her children would suffer. She urged this court to warn her against disobeying court orders.

4. On her part, the Petitioner stated that the disobedience of the court orders by the Objector herein was not new but rather the same had been ongoing for a long time. She stated that the Objector had been cultivating the land and that when the court directed her to remove the maize, she waited for it to dry and then harvested it. She asserted that what the Objector had said in mitigation is what she would have said when she was responding to her application. She averred that the Objector had lied leading the court to visit the site.
5. She contended that the Objector could not seek forgiveness yet she did not know which order she was said to have breached. She was emphatic that the Objector knew about the orders because she had in fact come to court to set the same aside. She further stated that the Objector even removed the beacons that had been put by the Surveyor. She asserted that the Objector ought to return the beacons at her cost.
6. She was emphatic that the Objector was not sick and that she did not have young children and that what she had were grandchildren. She added that the Objector had come to court with unclean hands and urged this court look at the dignity of the court and not to show the Objector mercy.

7. Although the Objector expressed remorse that the disobedience of the court orders was not deliberate but that the same was due to the fact that she misconstrued the several orders issued herein, the Ruling of this court dated 28<sup>th</sup> January 2026 was clear that she was guilty of contempt of court orders which were unambiguous.
8. In its Ruling of 28<sup>th</sup> January 2026, this court addressed her assertions of the ambiguity of the orders and found that its orders had been clear. In its decision of 30<sup>th</sup> April 2024, this court found that both the Petitioner and Objector were entitled to their respective portions as had been indicated in the Surveyor's Report dated 8<sup>th</sup> November 2022 pending the hearing and determination of the Objector's Summons for Revocation of Grant dated 28<sup>th</sup> September 2022 and filed on 1<sup>st</sup> November 2022.
9. As the evidence was not clear to the court who was occupying which portion, it visited the site. In its order of 16<sup>th</sup> December 2024, it directed the Objector to clear the maize until where the toilets where the Petitioner was running a clinic were to give access to the Petitioner. It was expected that the remaining maize was to be harvested and not re-planted again because the Petitioner was entitled to her portion of the land. Indeed, the Petitioner did not come back to court when the Objector did not harvest her maize despite the court having directed that the maize was to be cleared by 24<sup>th</sup> December 2024. This was disobedience of the court order if indeed she waited for the maize to dry before she harvested it.

10. The Objector filed the Notice of Motion dated and filed on 27<sup>th</sup> May 2024 seeking to set aside the orders of 30<sup>th</sup> April 2024. She knew which orders she was required to obey. This was a classic case of blatant disobedience of court orders by the Objector, the Contemnor herein. It was not a one-off contempt but rather, it was a continuous state of disobedience of court orders. She was playing cat and mouse games with this court. If the orders were ambiguous as she had contended, nothing would have been easier than for her to have come back to court to seek clarification to avoid breaching and/or violating the court orders.

11. This Succession Cause was lodged in 2015. Since 2020, four (4) decisions have been delivered. This court had been treated to a circus as the substantive issues remained unresolved as parties kept on filing application after application straining the already scarce resources of the court. Whereas the court had a duty to resolve disputes between parties, it could not remain engaged in one (1) case at the expense of other litigants who were also queuing for resolution of their matters.

12. This court was not toothless as the Objector may have thought as it had the discretion to punish contemnors to protect and uphold its dignity. This was a court of justice and the dignity of the court always had to be upheld. Notably, the principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The

Sentencing Policy Guidelines in Kenya added community protection and denunciation as sentencing objectives. The objectives were not mutually exclusive and could overlap. It was also important that the sentence indirectly send a strong signal to deter would be offenders from committing such an offence.

13. Having considered the facts of this case, the Objector's mitigation and the Petitioner's response thereto, this court came to the firm conclusion that a fine of Kshs 50,000/= or in default, six (6) months imprisonment sentence would be reasonable in the circumstances of this case.

#### **DISPOSITION**

14. For the foregoing reasons, the upshot of this court's decision was that the Objector, herein, Damaris Onea Okinda be and is hereby fined Kshs 50,000/= or in default, to serve six (6) months imprisonment.
15. It is hereby directed that the matter to be mentioned on 23<sup>rd</sup> March 2026 for further orders and/or directions in respect of the Objector's Summons for Revocation of Grant dated 28<sup>th</sup> October 2022 and filed on 1<sup>st</sup> November 2022.
16. It is so ordered.

**DATED** and **DELIVERED** at **VIHIGA** this **9<sup>th</sup>** day of **February** 2026

**J. KAMAU**  
**JUDGE**