



**Ooko v Nyeri Motor Services Limited (Civil Case E031 of 2019)
[2026] KEHC 1269 (KLR) (Commercial and Tax) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1269 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE E031 OF 2019
AA VISRAM, J
FEBRUARY 12, 2026**

BETWEEN

MICHAEL ONYANGO OOKO PLAINTIFF

AND

NYERI MOTOR SERVICES LIMITED DEFENDANT

RULING

1. Before the Court is the Plaintiff's Notice of Motion dated 18th November, 2019, brought under Order 40, rule 3 of the Civil Procedure Rules. The Applicant seeks orders that the Respondent and its directors be cited and punished for contempt of court for disobeying injunctive orders issued by this Court on 9th April, 2019, and extracted on 22nd May, 2019.
2. The application is supported by the affidavit of the Applicant sworn on 18th November, 2019. The Respondent opposed the application through a replying affidavit sworn by its Managing Director and through written submissions.
3. The Court has considered the application, the affidavits on record, the rival submissions, and the authorities cited.

Issue for Determination

4. The sole issue for determination is whether the Applicant has proved, to the requisite standard, that the Respondent was in contempt of the court order issued on 9th April, 2019, restraining the sale, transfer, or passing of ownership of motor vehicle registration number KCR 051M.



Applicable Legal Principles

5. Contempt of court proceedings are quasi-criminal in nature. The burden of proof rests on the Applicant and must be discharged to a standard higher than that applicable in ordinary civil proceedings, though not as high as beyond reasonable doubt.
6. The elements that must be established are settled. An Applicant must demonstrate:
 - a) the existence of a clear and unambiguous court order; b) knowledge of the order by the alleged contemnor; and c) deliberate disobedience of the order.
7. Kenyan courts have repeatedly held that personal service of a court order is no longer an inflexible requirement where knowledge of the order is proved. Knowledge supersedes personal service.

Whether a valid court order existed and was known to the Respondent

8. There is no dispute that this Court issued injunctive orders on 9th April, 2019, restraining the Respondent from selling, transferring, or passing ownership of motor vehicle registration number KCR 051M pending the hearing and determination of the substantive application.
9. The record shows that when the matter came before the Court on 9th April, 2019, both parties were represented by Counsel holding brief. The Respondent therefore had knowledge of the orders at the time they were issued.
10. Further, the extracted order dated 22nd May, 2019, bears a stamp acknowledging receipt by the Respondent's Advocates. In the circumstances, the Respondent cannot plausibly deny knowledge of the existence and terms of the court order.
11. The Court is guided by the holding of the Court of Appeal in *Shimmers Plaza Limited v National Bank of Kenya Limited* [2015] eKLR, where it was affirmed that knowledge of a court order is sufficient for purposes of contempt proceedings and dispenses with the requirement for personal service.

Whether the order was disobeyed

12. The Applicant's case is that despite the subsisting injunctive order, the Respondent sold and transferred the subject motor vehicle to a third party.
13. In support of this assertion, the Applicant produced records from the National Transport and Safety Authority showing that ownership of the motor vehicle had changed to a third party while the court order was still in force.
14. The Respondent's defence is that the vehicle had already been sold before the injunctive orders were issued, and that the orders were therefore incapable of compliance.
15. That explanation is unpersuasive. First, no documentary evidence of the alleged sale prior to 9th April, 2019, was placed before the Court at the time the injunctive orders were issued, despite the Respondent being represented in court.
16. Secondly, even after the orders were issued and served, the Respondent did not move the Court promptly to vary, discharge, or set aside the orders on the basis that they were incapable of compliance. The Respondent instead chose to disregard them.
17. The law is clear that a party who is dissatisfied with, or considers itself unable to comply with a court order must seek redress from the Court. Disobedience is not an option.



18. As was stated by the High Court in Republic v County Chief Officer, Finance & Economic Planning, Nairobi City County (Ex parte David Mugo Mwangi) [2018] eKLR, court orders are not issued for cosmetic purposes and must be obeyed unless set aside or varied.
19. On the material before it, the Court is satisfied that the Respondent deliberately acted in a manner inconsistent with the terms of the injunctive order, with full knowledge of its existence.

Conclusion

20. The Applicant has established the existence of a valid and clear court order, knowledge of that order by the Respondent, and deliberate disobedience thereof.
21. The threshold for contempt of court has therefore been met.
22. Committal to civil jail is however a last resort. I find it appropriate for the Applicant to pursue, the alternative remedy prayed for in the first instance. The Applicant shall identify the specific property and may move the Court accordingly.

Orders

23. In the result, the Court makes the following orders:-
 - a. The Respondent is hereby found to be in contempt of the orders of this Court issued on 9th April, 2019.
 - b. An order is hereby issued for the attachment and sale of the Respondent's property as a sanction for contempt.
 - c. The Applicant shall, within fourteen (14) days, identify the specific property to be attached and move the Court for further directions on attachment and sale.

DATED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS THIS 12TH DAY OF FEBRUARY, 2026

ALEEM VISRAM, FCI Arb

JUDGE

In the presence of;

Court Assistant: Godfrey

.....Plaintiff/Applicant

.....Defendant/Respondent

