

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
JUDICIAL REVIEW NO. E004 OF 2025

REPUBLICAPPLICANT

VERSUS

THE COUNTY GOVERNMENT OF ISIOLO.....1ST
RESPONDENT

THE COUNTY SECRETARY

COUNTY GOVERNMENT OF ISIOLO 2ND
RESPONDENT

THE CHIEF OFFICER FINANCE

ICT AND ECONOMIC PLANNING

COUNTY GOVERNMENT OF ISIOLO

THE COUNTY EXECUTIVE COMMITTEE3RD
RESPONDENT

MEMBER FOR FINANCE 4TH
RESPONDENT

AND

MBOGO & MURIUKI ADVOCATES.....EXPARTE
APPLICANT

RULING

1. What is before me is the Notice of Motion Application dated the 15/01/2026, brought pursuant to Provisions of ***Sections 13, 14, and 29 of the Environment and Land Act [2011]; Sections 1A, 1B, 3C and 63[e] of the Civil Procedure Act, Chapter 21 Laws of Kenya; and Order 45 of the Civil Procedure Rules 2010;*** and wherein the Exparte Applicant [herein after referred to as the Applicant] has sought the following reliefs:
 - i. *Spent.*

- ii. The court do review the orders issued on 24/11/2025 and order the full decretal sum of Kshs. 3,970,336/= only to be paid forthwith.*
 - iii. The contemnors be locked up at Meru G. K Prison for a period of 6 months pursuant to the court orders issued on the 24/11/2025.*
 - iv. The police Commander – Isiolo County, namely; Isaac Sang be summoned to court to show cause why penal action should be meted out against him for disobedience of a court order.*
 - v. The court do issue any other orders it deems just and equitable in the circumstances.*
 - vi. Costs of the application be provided for.*
2. The subject application is premised on various grounds which have been highlighted in the body thereof. In particular, it has been contended that this court issued/granted orders on the 24/11/2025, but which orders have been disregarded and ignored by the respondents. Moreover, it has been contended that the orders under reference were self-explanatory and in the event of default, the named contemnors were to stand committed to jail. In addition, it has been posited that despite the default, the contemnors remain at liberty and thus the court ought to intervene.
3. Additionally, it has been contended that though the orders, together with duly extracted warrants of arrest, were served upon the County Police Commandant – Isiolo, namely; Mr. Isaac Sang, same has failed, neglected and or refused to adhere to the orders of the court. To this end, it has been averred that the police commandant – Isiolo County, is equally guilty of disobedience of court orders.

4. The application is supported by the affidavit of Ken Muriuki [Advocate] sworn on even date and wherein the deponent has reiterated the grounds at the foot of the application. Moreover, the deponent has also annexed assorted documents including a copy of the orders of the court and the warrants of arrest issued by the court.
5. The application was duly served upon the respondents. Furthermore, the affidavit of service denoting service, has equally been filed. Though duly served with the application under reference, the respondents/contemnors did not file any response thereto. Nevertheless, learned counsel for the respondents attended court and participated in the hearing of the application.
6. The instant application came up for hearing on the 3/02/2026, whereupon the advocates for the parties covenanted to canvass and dispose of the application by way of oral submissions. The submissions by and on behalf of the parties are on record.
7. Briefly, learned counsel for the applicant adopted the grounds at the foot of the application and reiterated the contents of the supporting affidavit. Furthermore, learned counsel highlighted three [3] key issues. Firstly, learned counsel for the applicant submitted that the court issued orders on 24/11/2025 and wherein the respondents were directed to pay to the Applicant 50% of the decretal sum within a period of 14 days; and the remainder thereof was to be paid within 120 days. However, it was contended that the respondents have failed to comply with and abide by the orders of the court.

- 8.** Additionally, it was submitted that the orders of the court issued on the 24/11/2025; were explicit and thus a failure to comply therewith automatically culminated into contempt. To this end, it was contended that the respondents ought to be and indeed stand committed to jail.
- 9.** Secondly, it was submitted that the payment of 50% of the decretal sum was time bound and in the event of default, the entire sums became due and recoverable. In this regard, learned counsel has submitted that the court ought to direct that the entire sum is now due and recoverable forthwith.
- 10.** Thirdly, it has been submitted that the police commander – Isiolo County was duly served with the court orders and warrants of arrest. Nevertheless, it has been posited that despite service of the orders and the warrants of arrest, the said Police Commander has disobeyed the orders. In this regard, learned counsel for the applicant has submitted that the conduct of the police commander – Isiolo county amounts to disobedience and disregard of lawful court orders.
- 11.** Finally, learned counsel for the Applicant has submitted that though allegations have been made pertaining to payment of Kshs. 1,805,000/= only, the allegation is incorrect. Moreover, it was posited that no evidence has been placed before the court.
- 12.** Learned Counsel for the Respondents/Contemnors conceded that same has not filed any response to the application. Nevertheless, learned counsel implored the court to allow same a right of audience and latitude to respond to the application and the consequential issues. Suffice it to state that the court granted the liberty.

- 13.**It was the submission by learned counsel for Respondents/Contemnors that the court indeed made orders on 24.11.2025 and wherein the respondents were enjoined to pay the applicant 50% of the decretal sum within 14 days, but however, counsel stated that the orders had not been complied with. Moreover, learned counsel submitted that the respondents were not able to comply with the court orders because of budgetary constraints. In addition, it was submitted that at the time the court made orders, the County Government of Isiolo was operating on the basis of half budget.
- 14.**Furthermore, learned counsel submitted that the half budget, which the county was operating on was conditioned to the provision of certain essential services. In this regard, the counsel submitted that the half budget could therefore not be deployed to address and settle the decretal sum.
- 15.**The next issue that was canvassed by learned counsel for the Respondents was to the effect that the annual budget for the County Government of Isiolo was only approved in January, 2026. Moreover, counsel posited that upon the approval of the budget, the county government has since processed and paid out the sum of Kshs. 1,805,000/= only to the applicant. In addition, it was submitted that the money in question was paid out *vide* electronic fund transfer [EFT] on the 02/02/2026.
- 16.** Though learned counsel contended that the County Government had processed and paid out the said sum of Kshs. 1,805,000/= only *vide* EFT, no evidence was tendered to or placed before the court to confirm such payments. In any event, learned counsel submitted that the records

pertaining to the payment were under the custody of the Chief Officer – Finance and same could not readily be availed.

17.Other than the foregoing, learned counsel submitted that the failure to comply with the court orders was also caused/occasioned by the orders which were issued by the High Court at Nakuru. Nevertheless, learned counsel conceded that the said orders [High Court sitting at Nakuru] did not supersede the orders of this court.

18.The next issue that was highlighted by learned counsel for the respondents was to the effect that the contemnors are not physically present in court in accordance with the orders of the court. Particularly, learned counsel submitted that the County Executive Committee member – Finance, was reported to be outside the country. Be that as it may, no document was placed before the court.

19.The learned counsel however, failed to offer or provide any reason for the absence of the other contemnors, namely; the 2nd and 3rd Respondents.

20.Finally, and in response to a question by the court whether a party who has been adjudged guilty of contempt can seek indulgence of the court; and partake of favourable orders, counsel submitted that such a party is not entitled to favourable orders, until the contempt is purged. Moreover, learned counsel for the respondents admitted that the respondents remained in contempt of the orders of the court.

21.Be that as it may, learned counsel for the respondents pleaded with the court to exercise favour and mercy upon the contemnors. In particular, the court was implored to extend the timelines to enable the respondents to fully comply with the orders of the court.

22. Having reviewed the application beforehand; the supporting affidavit thereto; and upon taking into consideration the oral submissions canvassed by/on behalf of the parties, I come to the conclusion that the determination of the application turns on three [3] key issues. The issues are: Whether the respondents have complied with the orders of the court issued on the 24.11.2025 and if not, what are the legal implications of such failure; whether the Honourable court is seized of the discretion to extend the timelines or otherwise; and whether the conduct of the County Police Commander – Isiolo County constitutes disobedience of lawful court orders.

23. Before venturing to address the thematic issues highlighted in the preceding paragraph, it is important to state and underscore that court orders are commands which call upon the addressees thereof to do or to abstain from doing what the court has commanded. Notably, court orders are not mere suggestions or wishes, which afford the addressees latitude to choose whether to abide or not. Simply put, the addressees of court orders have an unqualified duty to obey and there is no option, until the orders are either set aside or rescinded but to comply.

24. In the case of **Teachers Service Commission versus Kenya National Union of Teachers [KNUT] [2013] eKLR**, the court stated as hereunder:

“A court order is not a mere suggestion or an opinion or a point of view. It is a directive that is issued after much thought and with circumspection. It must therefore be complied with and it is in the interest of every person that this remains the case. To see it any other way is to open the door to chaos and anarchy and this Court will not be the one to open that door. If one is dissatisfied

with an order of the court, the avenues for challenging it are also set out in the law. Defiance is not an option.”

25. Additionally, where a court has made an order any disobedience or disregard of such an order constitutes a serious attack on the rule of law and the general administration of justice. In such occasions, courts of law are called upon to deal with the culprits seriously, in an endeavor to uphold the dignity and integrity of the court.

26. The legal implications attendant to disobedience of court orders were expounded by the Court of Appeal in the case of **Shimmers Plaza Limited v National Bank of Kenya Limited [2015] KECA 945 (KLR)**. The court observed thus:

“We reiterate here that court orders must be obeyed. Parties against whom such orders are made cannot be allowed to trash them with impunity. Obedience of Court orders is not optional, rather, it is mandatory and a person does not choose whether to obey a court order or not. For as Theodore Roosevelt, the 26th President of the United States of America once said:-

“No man is above the law and no man is below it; nor do we ask any man’s permission to obey it. Obedience to the law is demanded as a right; not as a favour”.

The courts should not fold their hands in helplessness and watch as their orders are disobeyed with impunity left, right and centre. This would amount to abdication of our sacrosanct duty bestowed on us by the Constitution. The dignity, and authority of the Court must be protected, and that is why those who flagrantly disobey them must be punished, lest they lead us all to a state of anarchy .We think we have said enough to send this important message across.”

27. Back to the issues for consideration. It is common ground that this court issued orders on the 24.11.2025 and whereupon the court directed that the respondents do pay to the applicant 50% of the decretal sum within 14

days from the date of the order. Moreover, the court also made a further order that in the event of default, the persons who had already been found guilty of contempt were to stand committed to jail for a duration of six months.

28. It is instructive to highlight that the foregoing orders, were made on the date when the contemnors were attending court for purposes of mitigation and show cause. Furthermore, it is not lost on me that the terms of the order under reference were deduced from the submissions and concessions made by/on behalf of the parties. To this end, it suffices to highlight that the orders in question were essentially consensual; and arose as a compromise between the parties.

29. Furthermore, I beg to state that the terms of the orders were devoid of ambiguity. Given the nature of the orders, there is no gainsaying that the respondents and in particular, the contemnors understood the import and tenor thereof.

30. Regarding compliance with the terms of the order, it suffices to state that learned counsel for the Respondents conceded and acknowledged that the terms thereof had not been complied with. Nevertheless, learned counsel is on record pleading with the court to treat the respondents with mercy.

31. To my mind, there is no contest on the issue of non-compliance; or better still, disobedience with the orders of the court. In the premises, I

therefore encounter no difficulty in answering the first limb of issue number one. Pertinently, the respondents have disobeyed and disregarded lawful orders of the court. Moreover, the disobedience amounts to willful failure or refusal to comply with court orders. [See the decision in **Mutitika v Baharini Farm Ltd [1985] KECA 60 (KLR)**].

32. Turning to the second limb of the issue, namely; the implication[s] of such failure. It is imperative to observe that the orders that were issued by the court were self-explanatory and self executing. For good measure, the orders under reference contained a default clause which clause was to accrue or take effect automatically. In particular, the total decretal sum was to become payable and recoverable at once, in the event the limb one [payment of 50% of the decretal sum] was not paid within the prescribed timelines.

33. On the other hand, there was also the aspect of citation and committal. Simply put, the contemnors conceded that in the event of default to pay the 50% decretal sum, same would stand committed to jail. Moreover, the timelines /duration of comital were well captured.

34. Taking into account the terms of the court order and the self-executing nature thereof, there is no difficulty in returning a finding as hereunder:

- i. The entire decretal sum, namely Kshs. 3,970,336/= only is due and payable forthwith.*
- ii. The contemnors stand duly cited and committed to jail.*
- iii. The committal was to be served at G K Prison – Meru.*
- iv. The terms of sentence remains six months.*

v. ***The orders under reference have neither been reviewed nor rescinded.***

35. *In a nutshell*, my answer to issue number is to the effect that the contemnors remain guilty of contempt; stand committed to jail; and are to serve the term of committal at Meru G K Prison.

36. The next issue relates to whether the Honourable Court is seized of the discretion to extend the timelines or otherwise. Learned Counsel for the respondents/contemnors made submissions to the effect that the court should be pleased to extend the timelines to enable the respondents /contemnors to comply with the terms of court order. Nevertheless, counsel conceded that where a party has been adjudged guilty of contempt, such a party can only partake of and benefit from the equitable discretion of the court upon purging the contempt.

37. It is settled law that where a person has been found guilty of contempt, such a party cannot approach the seat of justice and partake of equitable discretion of the court. Nevertheless, there are known exceptions under the law. However, I beg to state that the respondent[s] herein did to establish and or prove that same fall within the known exceptions.

38. In the case of **Fred Matiang’i the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government v Miguna Miguna & 4 others [2018] KECA 789 (KLR)**, the Court of Appeal considered the law as pertains to the right of audience of a contemnor and the court stated as hereunder:

“In deserving cases, this Court has itself set its face firmly against granting contemnors audience until and unless they first purge their contempt and it shall continue to do so in such cases as evince a headstrong contumaciousness proceeding from a bold impunity, open defiance or cynical disregard for the authority of the Court and the integrity of the judicial system. Such pernicious conduct cannot be countenanced and those hell-bent on it will find neither help, nor refuge under a convenient and self-serving appeal to natural justice when their impudent conduct threatens the very foundation of the rule of law. While the right to fair hearing is sacrosanct and is one of the non-derogable rights in Article 25 of the Constitution, we affirm with this Court in A. B. & ANOTHER vs. R.B. 2016 eKLR that there may be instances where due to the risk of the rule of law being deliberately undermined, such right may be denied and the hearing of an application for stay denied until there is full compliance with the orders of the High Court.”

39. In my humble view, the Respondents/Contemnors herein remain in contempt. Moreover, it is worthy to recall that the court commanded that the contemnors to attend physically or present themselves to court, but same failed/refused to do so. In addition, it is not lost on me that no plausible, cogent or credible reason was tendered to underpin the failure by the contemnors to attend court.

40. I must point out that some feasible explanation was offered on behalf of the county executives committee member – finance. It was stated that the said officer [contemnor] was outside the country. Nevertheless, no documents were placed before the court to vindicate that assertion. It thus remains a mere assertion, propagated by learned counsel albeit from

the bar. It is devoid of probative value; and thus, same does not constitute sufficient cause. [See the meaning of sufficient cause as expounded in the case of **Wachira Karani v Bildad Wachira [2016] KEHC 6334 (KLR)**].

41. Flowing from the foregoing analysis, I come to the conclusion that the respondents /contemnors are not entitled to exercise of equitable discretion of the court and in particular, extension of the timelines. Moreover, there is no gainsaying that the application for extension of time was being mounted informally and without due regard to the known provisions of the law.
42. Turning to the final issue, namely; whether the conduct of the county police commander – Isiolo County constitutes disobedience of lawful court orders. It is imperative to highlight that the orders of the court were to the effect that in event of default, warrant of arrest were to issue. Additionally, and taking into account the seniority of the contemnors [County Executive Committee Members- Isiolo County], the court directed that the warrants be executed by the County Police Commander – Isiolo County.
43. I have looked at the record of the court and I can confirm that the warrants of arrest were indeed extracted, signed and sealed. Furthermore, the applicant has annexed an affidavit of service showing that the warrants of arrest were duly served upon the designated police officer.
44. Other than the foregoing, it is also apparent that upon receipt of the warrants of arrest and the court orders, the County Police Commander wrote to the court *vide* letter dated 06.01.2026, wherein he sought to confirm the validity of the warrants. The court upon receipt of the letter responded thereto and confirmed that the warrants in question were valid.

45. Despite the confirmation by the Deputy Registrar that the warrants were valid, the County Police Commander has refused, failed and or neglected to comply with the court order. Furthermore, it is worth recalling that the court made a further order calling upon the designated officer to attend court on the 03.02.2026 and to show cause/explain the reasons for his inaction.

46. I beg to state that even though evidence abound that the officer was duly served, as per the affidavit of service on record, the officer failed to attend court. Additionally, the officer did not deem it apposite to send even a representative to attend court and communicate his non-attendance or apologies.

47. To my mind, the County Police Commander – Isiolo County, in his wisdom, [or want of it], deemed the orders of the court as worthless; trash and undeserving of deference. Such kind of conduct and attitude [nay behavior] do not sit/portend well with the provisions of **Article 232 of the Constitution 2010.**

48. The provision of Article 232 of the Constitution 2010 stipulates thus:

232. Values and principles of public service

(1) The values and principles of public service include—

(a) high standards of professional ethics;

(b) efficient, effective and economic use of resources;

(c) responsive, prompt, effective, impartial and equitable provision of services

(d) involvement of the people in the process of policy making;

(e) accountability for administrative acts;

(f) transparency and provision to the public of timely, accurate information;

(g) subject to paragraphs

(h) and (i), fair competition and merit as the basis of appointments and promotions;

(h) representation of Kenya's diverse communities; and

(i)affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—(i)men and women;(ii)the members of all ethnic groups; and(iii)persons with disabilities.

(2)The values and principles of public service apply to public service in—

(a)all State organs in both levels of government; and

(b)all State corporations

(3)Parliament shall enact legislation to give full effect to this Article.

49. Every public or state officer, the County Police Commander – Isiolo County, not excepted, is obligated to be responsive; efficient; impartial ; and above all obedient to the rule of law. Any conduct that falls short of the provisions of article 232 of the constitution, constitute dis-service to the society and same must frowned upon.

50. In simple terms, I find and hold that the conduct of the county police commander – Isiolo County constitute disobedience of lawful court orders and therefore breach/violate inter alia the provisions of **Articles 244 and 245 of the Constitution 2010**, as read together with the National Police Service Act.

FINAL DISPOSITION

51. From the foregoing analysis, it must have become crystal clear that the current application is merited. In addition, it is evident that the respondents are and have remained in contempt of the court.

52. In the upshot, the final orders that commend themselves to me are as hereunder:

i. The application dated the 15/01/2026 be and is hereby allowed.

- ii. ***The sum of Kshs. 3,970,336/= only is due and payable forthwith.***

- iii. ***The contemnors namely; the 2nd, 3rd and 4th respondents [The county secretary; the CEC – Finance; and the Chief Officer – Finance] be and are hereby committed to serve six months sentence at Meru G K Prison in line with orders issued 24.11.2025.***

- iv. ***The County Police Commander – Isiolo County Namely; Isaac Sang is still under obligation to effect the warrants of arrest that were served upon same and confirmed vide his letter dated 06.01.2026***

- v. ***The said County Police Commander – Isiolo County Namely; Mr. Isaac Sang is hereby found and held to have disobeyed lawful orders of the court.***

- vi. ***The orders of the court herein shall be served upon the Inspector General of Police and the National Police Service Commission for purpose of appropriate disciplinary action in accordance with Police Service Standing Orders.***

- vii. ***The costs of the application be and are hereby awarded to the Applicant.***

- viii. ***The costs in terms of clause [vii] are assessed and certified in the sum of Kshs. 20,000/= only.***

53.It is so ordered.

**DATED SIGNED AND DELIVERED AT ISIOLO ON THE 03RD DAY OF
FEBRUARY , 2026.**

OGUTTU MBOYA, FCIArb; CPM [MTI-EA].

JUDGE

In the presence of:

Mukami Court Assistant

Mr. Ken Muriuki for the Applicant

Mr. Koome Murithi for the Respondents/Contemnors