



**Ogutu v Juma & 4 others (Environment and Land Appeal  
E080 of 2025) [2026] KEELC 1351 (KLR) (5 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1351 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT AND LAND APPEAL E080 OF 2025**

**E ASATI, J**

**MARCH 5, 2026**

**BETWEEN**

**JANET ODWAR OGUTU ..... APPELLANT**

**AND**

**JOHN OKOTH JUMA ..... 1<sup>ST</sup> RESPONDENT**

**JARED ODHIAMBO OGINGA ..... 2<sup>ND</sup> RESPONDENT**

**KENNEDY OTIENO ONYANDO ..... 3<sup>RD</sup> RESPONDENT**

**HELLEN ADHIAMBO MIDIKA ..... 4<sup>TH</sup> RESPONDENT**

**LEONARD OMONDI AYUKO ..... 5<sup>TH</sup> RESPONDENT**

**RULING**

1. The Notice of Motion application dated 19th January, 2026 seeks for orders that;
  1. Leave be granted to cite the contemnor for contempt of court order.
  2. Upon prayer 2 being allowed, the contemnor herein be committed to civil jail for a period not exceeding six (6) months and/or be imposed a fine as the honourable court may in its discretion decide for disobedience of a court order given on 29<sup>th</sup> August 2025.
  3. Costs of the application be borne by the contemnor.
2. The application was supported by the averments in the Supporting Affidavit sworn by the applicant on 19<sup>th</sup> January, 2026.
3. The application was not opposed.
4. Affidavit of service sworn by Patrick Okwiry, a Court Process Server, on 16<sup>th</sup> February, 2026, indicated that with instructions to serve the Citee with the application and accompanying documents, the



process server did on 6<sup>th</sup> February, 2026, at around 10:30 a.m., serve one of the clerks in the Land Registry at Nyando Awasi Land Registrar with copies of certificate of urgency, Notice of Motion and Statement dated 19<sup>th</sup> January, 2026. That the clerk received the service and acknowledged receipt on the Process Server's copy by stamping.

5. That on 4<sup>th</sup> February, 2026, the Attorney General was also served with the same documents. Annexed to the Affidavit of Service is a copy of the certificate of urgency, duly stamped with the receiving stamps of the Office of the Attorney General, Kisumu, on 4<sup>th</sup> February, 2026, and Nyando Land Registry on 16<sup>th</sup> February, 2026.
6. The application, therefore, proceeded to hearing ex parte.
7. Counsel for the Applicant urged the court to allow the application. The application seeks to cite one R.K. Kalama for the Land Registrar Nyando/Nyakach & Muhoroni.
8. The case of the Applicant is that the court issued an order of temporary order of stay of execution of the judgment in NYANDO CM ELC NO. E032 OF 2023 pending hearing and determination of the stay application. That the judgment whose execution was stayed was to the effect that the Applicants' proprietorship of the suit land parcel No. KISUMU/BORDER/2787 and its subsequent subdivisions, being land parcel numbers 4151, 4159, 4758, 4164 & others, be cancelled. That a copy of the order was extracted and served upon the Citee on 2<sup>nd</sup> September, 2025. That the Applicant came across a letter dated 7<sup>th</sup> October, 2025 by the cite, instructing the Sub-county Surveyor Nyando to cancel the suit parcel in a bid to execute the stayed judgement.
9. That it is in the interest of justice that the contemnor be punished by the honourable court for him to respect due process of the law and obey court orders so as to deter lawlessness.
10. To the Supporting Affidavit was attached a copy of the court order dated 20<sup>th</sup> August, 2025. Also annexed was Affidavit of Service sworn by David Elvis Ochieng, a Process Server, on 26<sup>th</sup> September, 2025. The Process Server deposed that on 2<sup>nd</sup> September, 2025, he served the Land Registrar with a copy of the court order at the office of the Land Registrar at Ardhi House Awasi, Headquarters.
11. That the Land Registrar accepted service by date-stamping the copy.
12. Further, to the Supporting Affidavit was annexed a copy of a letter dated 7<sup>th</sup> October, 2025, addressed to the sub-county Surveyor Nyando by R.K. Kalama, Land Registrar Nyando, Nyakach & Muhoron. A copy the letter which is attached to the application read as follows: -

Sub County Surveyor,

Nyando

Re: Parcel No. Kisumu/Border/2387(4151, 4159, 4758, 4164 & Others

Reference is made to an order decree case No. MCELC/EO32/2023 in the Magistrate's Court of Kenya at Nyando Law Courts.

The court ordered the cancellation of parcel numbers: Kisumu/border/4151, 4159, 4764 & others.

Therefore I direct you to cancel the numbers from the mutation for a fresh subdivision.

R. K. Kalama

Land Registrar



Nyando/nyakach/muhoroni.”

13. It is clear that the Citee was the author of the letter in which he directed the sub county Surveyor to cancel the titles. This directive was contrary to the court order that stayed the cancellation. The letter was written on 7<sup>th</sup> October 2025 which was after service of the court order. The Affidavit of service showed that the Citee was served with the court order on 2<sup>nd</sup> September 2025.

14. The Black’s Law Dictionary 10<sup>th</sup> Edition at page 385 defines contempt of Court as;

Contempt (also termed as contempt of Court, judicial contempt) is a disregard of, disobedience to, the rules, or orders of a legislative or judicial body, or an interruption of its proceedings by disorderly behaviour or insolent language, in its presence or so near thereto as to disturb the proceedings or to impair the respect due to such a body.”

15. In the case of Kenya Human Rights Commission v Attorney General & another [2018]eKLR the Court observed;

Contempt is the willful disobedience or disregard of Court orders, Judgments, decrees or directions. It is therefore the offence of being disobedient or discourteous towards Courts and their officers in the form of behavior that opposes or defies the authority, justice and dignity of the Court. Contempt manifests itself in the willful and intentional disregard of or disrespect for the authority of the Courts, a behavior that is regarded illegal because it does not obey or respect the authority of the Courts and their processes and tends to lower the dignity of the Courts.

16. *The Constitution* Article 4(2) declares Kenya a democratic state founded on national values and principles of governance which include the rule of law and democracy. Disobedience and disregard of the authority of the Courts violates national values and *the Constitution*. In that regard, Courts punish for contempt in order to maintain their dignity, authority, the rule of law, democracy and administration of justice as foundational values in our Constitution.

17. Article 159 of *the Constitution* recognizes the judicial authority of Courts and tribunals established under *the Constitution*.

“Courts and tribunals exercise this authority on behalf of the people. The decisions Courts make are for and on behalf of the people and for that reason, they must not only be respected and obeyed but must also be complied with in order to enhance public confidence in the judiciary which is vital for the preservation of our Constitutional democracy. The judiciary acts only in accordance with *the Constitution* and the law (Article 160) and exercises its judicial authority through its Judgments, decrees, orders and/or directions to check government power, keep it within its Constitutional stretch hold the legislature and executive to account thereby secure the rule of law, administration of justice and protection of human rights. For that reason, the authority of the Courts and dignity of their processes are maintained when their Court orders are obeyed and respected thus Courts become effective in the discharge of their Constitutional mandate”.

18. In the present case, the Applicant has demonstrated the existence of a valid court order and that the Citee had knowledge of the same. The Applicant has also demonstrated that the Citee, in spite of being aware of the court order proceeded to direct for cancellation of the titles in breach of the court order. I find that the actions of the Citee were deliberate and wilful.



19. In *Martin Nyaga Wambora & 4 Others Vs. Speaker of the Senate & others* (2014 eKLR) it was observed that:

"... the disobedience of a Court order is a grave issue as it undermines the rule of law. Article 10 of *the Constitution* identified the rule of law as one of the guiding principles of governance. Article 3 of *the Constitution* is very clear that every person has an obligation to respect and defend *the Constitution*. So that any person who disobeys a Court order violates *the Constitution*."

20. This Court being a creature of *the Constitution* is enjoined under Section 29 of the ELC Act to punish for contempt. Section 29 of the *Environment and Land Court Act* provides;

"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."

21. I find that sufficient cause has been demonstrated to require the Citee to show cause why he should not be punished for contempt of court. The court allows the application and makes the following orders;

- a. The Court hereby finds the Citee one R. K. Kalama, guilty of contempt of Court by disobeying the order issued on the 29/8/2025.
- b. The Citee one R. K. Kalama, is hereby ordered to personally appear before the Court on the 17/3/2025 for mitigation and to show cause why he should not be punished for contempt of the Court by disobeying Court orders issued on the 29/8/2025.
- c. Each party shall bear own costs of this application.

**RULING DATED AND SIGNED AT KISUMU, READ THIS 5<sup>TH</sup> DAY OF MARCH, 2026  
VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**

**E. ASATI**

**JUDGE**

In the presence of:

Maureen: Court Assistant.

Akinyi for the Appellant/Applicant

No appearance for the Respondent.

