



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT NAKURU**

**ELC NO 288 OF 2012**

**PETER K GITAHU.....1<sup>ST</sup> PLAINTIFF**

**NDUNGU MUGOYA.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**AKUISI FARMERS CO. LTD.....1<sup>ST</sup> DEFENDANT**

**JOHN KAGAI.....2<sup>ND</sup> DEFENDANT**

**RULING**

***(Application for contempt; judgment being given in favour of the plaintiffs; defendants failing to comply with the judgment despite being served; 2<sup>nd</sup> defendant held to be in contempt and warrant of arrest issued)***

1. The application before me seeks orders that the 2<sup>nd</sup> defendant be committed to jail for contempt of court for disobeying the orders of this court issued on 14 July 2016.
2. By way of background, this suit was commenced through a plaint which was filed on 19 January 2012. The plaintiffs averred that they are members of Akuisi Farmers Company Limited, a land buying company, which purchased the land parcels LR No. 8943 and 8944, and LR No. 9949. They claimed that the directors have failed to allow members to ballot and have the land distributed to them. In the suit, they asked for orders that the defendants be ordered to hold a balloting exercise and allocate the land to the members. The suit was not defended and I entered judgment for the plaintiffs.
3. In this application, the plaintiffs complain that despite the decree being served upon the 2<sup>nd</sup> defendant, he has failed and/or refused to comply with the same.
4. The 2<sup>nd</sup> defendant despite being served with the application, has failed to respond to it. I have no reason to doubt the deposition of the applicants that they have served the decree and that the 2<sup>nd</sup> defendant has failed to abide by its terms. I therefore hold that the 2<sup>nd</sup> defendant is in contempt of the judgment of this court.
5. I now issue a warrant of arrest of the said John Kagai so that he may be presented to this court for sentencing.
6. The 2<sup>nd</sup> defendant will bear the costs of this application.
7. Orders accordingly.

**Dated, signed and delivered in open court at Nakuru 31<sup>st</sup> day of July 2019.**

**JUSTICE MUNYAO SILA**

**ENVIRONMENT & LAND COURT AT NAKURU**

**In presence of :-**

Mr. Omenta for the applicants.

No appearance for the respondent.

Court Assistants- Nelima Janepher/Patrick Kemboi

**JUSTICE MUNYAO SILA**

**ENVIRONMENT & LAND COURT AT NAKURU**