



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAROK

ELC CAUSE NO. 85 OF 2017

FORMERLY NAKURU ELC NO. 282 OF 2014

JOHNSON CHERUIYOT & 19 OTHERS.....APPLICANTS

-VERSUS-

DIRECTOR OF KENYA FOREST SERVICES & 2 OTHERS...RESPONDENTS

RULING

By a Notice of Motion dated 17th July, 2018 the Plaintiff/Applicant sought for orders to punish the Respondents herein and find them to be in contempt of court and commit them to jail for a period of six (6) months and the cost of the application be provided for. The application was based on the grounds that the Respondents are in disobedience of an order of the court that was issued on 14th October, 2014 and despite the existence of the aforesaid order they have gone ahead and evicted the applicants from the suit land and torched their houses and that the aforesaid conduct has put the dignity and authority of the court in disrepute.

The application was further supported by the Affidavit of the 1st Applicant in which he deponed that the Respondents were served with a court order that was issued on 14th October, 2014 and they accepted service and in disregard of the same the Respondents evicted the Applicants and their families from the land.

The Application was opposed by the 2nd Respondent by way of grounds of opposition and averred that the Application does not comply with the provisions of the Contempt of Court Act and that he was not served with the Application.

I have read the Application before me and the submissions filed by the 2nd Respondent. It is the Applicants contention that the Respondent had disobeyed the order of the court dated 14th October, 2014. From the pleadings the Applicants have not indicated the dates and the place in which the aforesaid evictions took place. The Applicant has not particularized the acts and omission required to satisfy the allegations and proof of the said contempt. No evidence other than newspaper cutting were shown and from the said newspaper cutting I can't know exactly if the suit land is indeed where the reputed evictions are taking place and therefore it is my finding that the Applicants have not discharged the burden of proof to have the Respondents held in contempt of court.

In a nutshell I find that the Application dated 17th July, 2018 is not merited and I thus dismiss the same with costs.

I must note that the 1st Applicant has the tendency to file multiple applications in this matter and other matters he has in court without even giving the court courtesy to make a determination of previously filed application and in view of the above I order that the executive officer of the court not to accept any new applications by the 1st Applicant unless with the express orders of the sitting judge.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this 27th day of **September, 2019**

Mohammed Kullow

Judge

27/9/19

In the presence of: -

CA:Chuma/Kimiriny

Kibet for the 4th to 8th proposed intended defendant

N/A for the plaintiff

Mohammed Kullow

Judge

27/9/19