

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC NO. 10 OF 2013

GEORGE MUDIAPLAINTIFF

VERSUS

CELESTE NJUE ERENKANYA.....DEFENDANT

RULING

1. This ruling is in respect of the application dated 15th March, 2018 whereby the plaintiff/applicant is seeking for orders to the effect that Peter Njagi Njue, Lawrence Kiraithe, Kenneth Gitonga and Mutembei Njue be punished by the court for contempt of the court orders in respect of the judgment delivered on 15th November, 2017.

2. The aforementioned application was partially dealt with vide the court's ruling of 16th May, 2018 whereby the court found the person's mentioned as respondents guilty of contempt of court's orders. The matter was coming up today for mitigation and sentencing. The respondents are still seeking for more time to look for their advocate.

3. I decline to give the respondents any more time because I had earlier on given them 10 minutes to look for their advocates and I have now ended up giving them 30 minutes. It is noted that the respondents have not told this court as to where their advocate is. However despite the foregoing it is noted that Mr. Kaumbi counsel for the respondents did enter the court room and has been allowed to participate in the proceedings.

4. The mitigation advanced by the respondents through their advocate is that the respondents ought to be granted few more days to vacate the land.

5. The court will proceed to give directions on sentencing as well as further directions regarding the respondent known as Mutembei Njue who is absent.

Committal proceedings

6. The first step the court undertakes is to bring to the attention of the respondents the charges they are facing.

7. The court proceeds to briefly read the Judgment of the court as well as the court's ruling of 21.2.2018 and the court's ruling of 16.5.2018. The proceedings are conducted in Kimeru-English interpretation with Janet being the court assistant.

8. I have considered the mitigation advanced by counsel for the respondents. The same amounts to an admission that the respondents are still on the suit land. No plausible explanation has been advanced as to why the respondents have taken it upon themselves to defy the court order. Further no plausible explanation has been advanced as to why the person known as Mutembei Njue has declined to appear personally before this court. The court has also been informed by the respondent known as Peter Njagi that the person known as Lawrence Kiraithe is now dead.

9. In the circumstances, I proceed to give the following orders;

(i) Peter Njagi Njue and Kenneth Gitonga are hereby directed to pay a fine of Kshs. 20,000 each in default to serve 2 months imprisonment.

(ii) A warrant of arrest is to issue against Mutembei Njue so as to be brought before this court for mitigation and sentencing. The said warrant of arrest to be effected by the O.C.S Ntumu Police station.

(iii) Mention on 23rd May, 2018 for further directions.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 21ST DAY OF MAY, 2018

HON. L. N. MBUGUA

ELC JUDGE