



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MACHAKOS
ELC. CASE NO. 200 OF 2011

PATRICK DAUDI KIMULI.....PLAINTIFF

VERSUS

KATELEMBO ATHIANI FARMERS &

RANCHING CO. LTD.....1ST DEFENDANT

JULIANA MATEE MATAKI.....2ND DEFENDANT

MARTIN KYALO MALIKI.....3RD DEFENDANT

MACHAKOS DISTRICT LAND REGISTRAR....4TH DEFENDANT

ATTORNEY GENERAL5TH DEFENDANT

RULING

1. In the Notice of Motion dated 15th September, 2014, the Plaintiff is seeking for an order that the 2nd and 3rd Defendants be held in contempt of court and be committed to civil jail for a term of six(6) months for disobedience of the order of the court of 22nd August, 2011.
2. The Application is premised on the grounds that on 22nd August, 2011, the court issued an order that the status quo to be maintained with respect to land known as Athi River/Athi River/Block 1/118; that the Defendants were present when the order was being made and that they have disobeyed the said order.
3. According to the Plaintiff's Affidavit, on 11th September, 2014, the 2nd and 3rd Defendants continued to alter the suit land by bringing construction materials on the land; that the stones are still on the land and that the order of the court has been disobeyed.
4. I have perused the file and I have not come across a response from the 2nd and 3rd Defendants. The 1st Defendant's lawyer informed the court that he does not oppose the Application.
5. The Plaintiff's advocate filed brief submissions which I have considered.
6. Although the Plaintiff has deponed that on 11th September, 2014, the 2nd and 3rd Defendants brought construction materials on the suit land, and that on the same day, a tractor was brought on the land and

started digging it, there is no evidence of such acts happening to the suit land.

7. The only evidence exhibited by the Plaintiff in his Further Affidavit is a photograph showing some stones. However, the photograph does not indicate when it was taken and by who.

8. In the absence of evidence to support the allegation that indeed the 2nd and 3rd Defendants breached the order of this court on 11th September, 2014 or at all, I dismiss the Application dated 15th September, 2014 with costs.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 22ND DAY OF SEPTEMBER, 2017.

O.A. ANGOTE

JUDGE