

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
MILIMANI LAW COURTS
ELC. CASE NO. 623 OF 2009

MOSES KINGATI WANGARI

MICHAEL MWENDA MANYARA

JOSEPH MUSYOKA WAMBUAPLAINTIFFS

(Suing as The Secretary, Organizing Secretary &

Member on their own behalf and on behalf of

Githurai Mwihoti Settlement society)

VERSUS

JOSEPH THUGO MWAURA.....1ST DEFENDANT

DAVID KIARIE WAIYA.....2ND DEFENDANT

SILAS KINYANJUI KIMEMIA.....3RD DEFENDANT

DINAH MUTHONI MBUGUA.....4TH DEFENDANT

DAVID GITAU MBUTHIA.....5TH DEFENDANT

RULING

Coming up before me for determination is the Notice of Motion dated 22nd February 2011 in which the 5th Defendant/Applicant seeks for orders that the Plaintiffs/Respondents namely Moses Kingati Wangari, Michael Mwenda Manyara and Joseph Musyoka Wambua be committed to civil jail for being in contempt of this court's orders made on 4th November 2010 by Honourable Justice Mbogholi Msagha.

The Application is premised on the grounds appearing on its face together with the Supporting Affidavit of June Koinange, a daughter to the 4th Defendant and a sister to the 5th Defendant/Applicant. She averred that she has the 5th Defendant's authority and permission to swear the Affidavit. She, however, did not annex that authority and she is not a party to this suit. It is clear to the court that the said June Koinange's Supporting Affidavit cannot be relied on based on the fact that she not a party herein and has no authority to swear the same on behalf of the Applicant. On those grounds this Application must fail.

The Application is therefore dismissed. Costs shall be in the cause.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 1ST DAY OF SEPTEMBER 2017.

MARY GITUMBI

JUDGE