



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

CASE NO. 154 OF 2015

ZIZZLERS CAFE.....PLAINTIFF

VERSUS

SALAAM HOLDINGS LIMITED.....1ST DEFENDANT

FEISAL NURANI.....2ND DEFENDANT

RULING

Sizzlers Cafe, hereinafter referred to as the applicant have come to this court by way of application dated 6th July, 2015 for prayers that the 2nd respondent be committed to jail for six months for contempt of court or to compel him obey the law. The applicant further prays that the respondents be ordered to pay a fine of Kenya Shillings Five Hundred Thousand which is the approximate cost of physical damage caused by the respondent. The applicant prays for restitution to the original state of the premises occupied by the plaintiff as at the date of the first act of contempt.

The applicant also prays for an order of attachment of the alleged contemnor's property and accounts in any bank or debts with any debtor within the country to prevent the ends of justice from being defeated or to satisfy court orders. The application is based on grounds that the plaintiff has been in occupation of the properties known as Eldoret/Municipality/Block 7/68 but parties have variously described the property as 7/64 and 7/65. However, the plaintiff came to learn later that the property is 7/68.

On the 5.6.2015, this court issued an order in terms that the interim orders in force in respect of the applications dated 2nd June, 2015 and 16th June, 2015 be and are hereby extended to 10th July, 2015. The court further issued a mandatory temporary injunction to compel the defendant/respondent to remove the barricades and/or hoarding erected in the front and the rear of the leased premises on Land Title Number Eldoret Municipality/Block 6/65 and to cover up to the original state the dug up pavement and to restore the entire leased premises to its original state as at 28th May, 2015 and a temporary injunction restraining the defendant/respondent, its agents, servants, employees and/or any other person acting on its instructions from evicting or in any way interfering with the plaintiff's/applicant's occupation, access to, use or quiet enjoyment of the leased premises on Land Title Number Eldoret Municipality/Block 7/65. The application was to be served within three (3) days and it be heard on 10th June, 2015.

On the same date, the court issued an order that the defendant be served by substituted service by way of publication to be made in the Standard Newspapers within 4 days from the date of issue. On the 6.6.2015, the defendant was duly served with the order and appointed an advocate to act on its behalf. It is alleged that on the 2.7.2015, the defendant blatantly disobeyed the court orders issued on the 5.6.2015.

The application is supported by the verifying affidavit of **Nawaz Ahmed Abdul Manji** who states

that the plaintiff/applicant has at all material times been in occupation of premises on which it has carried on business in its name on Kenyatta Street, in Eldoret Municipality for approximately twenty six (26) years which premises was previously owned by Eldomart Medical Plaza Company Limited and now currently owned by the defendant/1st respondent. That parties have variously described the premises on which the plaintiff/applicant carries on business as Eldoret Municipality/Block 7/64 or 7/65 or 7/68 or all three but the Plaintiff/Applicant came to know on 10th June, 2015 that the premises is situated on Eldoret Municipality/Block 7/68.

On 3rd and 4th June, 2015, this Honourable Court made the following orders that a mandatory temporary injunction to compel the defendant/respondent to remove the barricades and/or hoarding erected in the front and the rear of the leased premises on Land Title Number Eldoret/Municipality/Block 7/65 and to cover up to the original state the dug up pavement and to restore the entire leased premises to its original state as at 28th May,2015 and a temporary injunction to restrain the defendant/respondent, its agents, servants, employees and/or any other person acting on its instructions from evicting or in any way interfering with the plaintiff's/applicant's occupation, access to, use or quiet enjoyment of the leased premises on Land Title Number Eldoret Municipality/Block 7/65. That an order be and is hereby issued directing the Officer Commanding Station, Eldoret Police Station, Deputy Officer Commanding Station, Eldoret Police Station and/or Officer in Charge of Eldoret Police Station, the County Government, the Deputy County Commander, Uasin Gishu Government and/or the Officer in Charge of the Uasin Gishu Government to be served with this order and to ensure compliance thereof. That on 5th June, 2015, this Honourable Court made an order for substituted service as follows:

“That the defendant/respondent herein, Salaam Holdings Limited be served with the pleadings, any applications and any order herein by substituted service by way of publication to be made in the Standard Newspaper within the next four (4) days.”

On 6th June, 2015, defendant/1st respondent was duly served as ordered by the court by substituted service by way of publication in the Standard Newspaper. In particular, the defendant/1st respondent was served in the said publication inter alia with the orders of the court given on 3rd and 4th June, 2015. The defendant/1st respondent upon service of the court orders, instructed M/s Anassi Momanyi and Company Advocates to act for and on its behalf and Ms Anassi Momanyi indeed on 10th June, 2015 filed a Memorandum of Appearance, Affidavit in Reply to the application for the injunctive orders and a defence to the claim. The applicant depones that the defendant's/1st respondent's responses constitute an admission of service of the orders of this court, notice and knowledge of existence of the court orders aforesaid. The defendant/1st respondent is obligated to obey court orders regardless of its position so far as the court order is concerned. However, the defendant/1st respondent has blatantly disregarded the court order and proceeded to cause further and more damage to the premises the plaintiff/applicant carries on business and has been carrying on business for the last 26 years on parcel of land known as Eldoret Municipality/Block 7/68.

The defendant/1st respondent and the 2nd respondent on the night of 1st and 2nd July, 2015, in blatant disregard of the court orders issued in this case proceeded to interfere with the plaintiff's/applicant's occupation, use or quiet enjoyment of the premises it had lease don Kenyatta Street, Eldoret by Drilling six (6) holes, all of which were massive in the slab forming the roof of the space occupied by the plaintiff/applicant and causing the destruction on the premises of the plaintiff/applicant's property, to wit, crockery and consumables. Moreover, depositing debris and dirt all over the premises occupied by the plaintiff/applicant. Last but not least, Interfering with the plaintiff/applicant's business on the same premises to the effect that the plaintiff/applicant was unable to carry out its business activities on the said premises on 2nd July, 2015. The above actions constitute the first act of contempt.

That after the court attendance on 2nd July, 2015 and at or about 3.00 p.m., the defendant/1st respondent's servants and/or agents under the directions of the 2nd respondent descended on the leased premises occupied by the plaintiff/applicant and proceeded, in total breach of the court order in this case, to cut the metal grills on the display window of the premises occupied by the plaintiff/applicant, removed them and carted them away. Using crude heavy metallic weapons, they shattered the display window and exposed the entire premises occupied by the plaintiff/applicant and Interfered with the plaintiff/applicant's

occupation of the leased premises by exposing the plaintiff/applicant to the risk of theft. According to the plaintiff, the above actions constitute the second act of contempt.

The court on 2nd July, 2015 extended the description of the property occupied by the plaintiff/applicant to the piece of land known as Eldoret Municipality/Block 7/68. The defendant/1st respondent was represented in court. However through the disobedience of court orders by way of barbaric acts, the respondents have caused wanton and untold destruction to the plaintiff/applicant's premises and business and the plaintiff/applicant has been unable to carry on business whilst it repairs the damage caused by the respondents. That it is only fair and just that the orders sought issue in the best interest of justice.

The Relief Sought by the plaintiff' is an order that 2nd respondent be committed to jail for six (6) months to compel him to obey the law. An order that the respondents do pay a fine of Kenya Shillings Five Hundred Thousand (Kshs.500,000) which is the approximate cost of physical damage caused by them and a further sum of Kenya Shillings Five Hundred Thousand (Kshs.500,000) as restitution to the original state of the premises occupied by the plaintiff/applicant as at the date of the first act of contempt. An order that the respondents pay for damages and loss suffered by the plaintiff/applicant. An order that the respondents pay the costs of these proceedings. The respondent filed two replying affidavits denying having committed any act of contempt as alleged by the applicant and states that the plaintiff has violated the paramount doctrines of equity and come to this Honourable Court of justice with unclean hands with the main motive of misleading the court and unfairly gaining what it does not deserve. This Honourable court issued orders on 5th June, 2015, against Land Title Number Eldoret Municipality/Block 7/65, but nonetheless, the plaintiff, with undue regard to the defendant's rights, went ahead to abuse the orders by frustrating the defendant and enforcing the said orders against it and on a different property (Land Title Number Eldoret Municipality/Block 7/68) without due cause or reason. That the defendant is the registered and true owner of Land Reference Number Eldoret Municipality/Block 7/68, however the plaintiff had prior to 2nd July, 2015, obtained order against Land Reference Number Eldoret Municipality/Block 7/65.

Later and to its utter dismay and shock, the defendant through other means other than service by the plaintiff as ordered by the court, stumbled upon two court orders one dated 2nd July, 2015 and later a subsequent one dated 10th July, 2015, against Land Reference Number Eldoret Municipality/Block 7/68, followed by an application for contempt of court of the orders dated 6th July, 2015 seeking to commit the 2nd respondent to civil jail for disobeying the court orders issued on 5th June, 2015. According to the respondent the plaintiff is actually in contempt of the said orders since he neither served the application nor the court order itself as ordered to the defendant. That sometime in 2014, the defendant offered the plaintiff a chance to be a tenant on the said property at a monthly rent of Kshs.197,040.00 or Kshs.70 per square foot but despite this still continued to occupy the defendant's premises without fulfilling its obligation of paying the said rent.

The orders issued on land reference Eldoret Municipality Block 7/65 could not be used to stop any renovations, work or activities undertaken on land reference Eldoret Municipality Block 7/68, a totally different and distinct parcel of land. This automatically means the defendant has not in any way disobeyed the said court order. That there is nothing which was ever at any one point done by the either the defendant or 2nd respondent on Land Reference Eldoret Municipality Block 7/65 including on the mentioned nights of 1st and 2nd July 2015. On 2.7.2015, he was nowhere near the suit property at land reference Eldoret Municipality Block 7/68 nor did he direct any activities on the said property. In addition to this, the plaintiff took photographs on 2nd July, 2015, and attached them to his Replying Affidavit dated 6th July, 2015 and filed on 7th July, 2015, purporting that the respondents had drilled holes in contempt of the court order dated 2nd July, 2015. The respondents maintain that no activity was carried out on Land Reference Eldoret Municipality Block 7/68 after issuance of the court order.

That neither the defendant nor the 2nd respondent has to date been served with any court orders nor was it aware of any orders issued against Land Reference Eldoret Municipality Block 7/68 but only learnt of the orders issued on 2nd July, 2015 coincidentally through other means. That the defendant is entitled and has every right to undertake renovations strictly as per the approved plan on Land Reference

Eldoret Municipality Block 7/68 unless it is stopped by a court order, which it fully complied with. That as stated in the defendant's affidavit dated 2nd July, 2015 and filed on 3rd July, 2015, the defendant had already started undertaking renovations on Land Reference Eldoret Municipality Block 7/68 prior to the institution of this suit and had purchased materials that cost it a colossal amount of money as well as paid contractors and grounds men and as such is entitled to a return on its investment. There is no physical damage on the premises occupied by the plaintiff and the issue of restitution of the premises to its original condition or state does not arise as the premises have been there for a very long time and as expected, there is wear and tear that no loss has been suffered by the plaintiff and in any event, the party who has suffered massive loss in this suit is the defendant since the plaintiff has been abusing the orders that this Honourable court issued and has time and again used the assistance of the police to stop the renovations and pull down structures put up to facilitate the renovation. Moreover, the plaintiff has gone ahead and threatened the contractors and grounds-men and in extension barred the defendant from undertaking any renovations whatsoever on its rightfully owned property.

The respondent further claims that the defendant even filed an application dated 2nd July, 2015, under Certificate of Urgency seeking the court's protection and intervention due to the plaintiff's blatant infringement on its rights and freedoms. The plaintiff cannot seek the court's protection and allege contempt of court by the defendant yet it is the one that has repeatedly infringed on the rights of the defendant after seeking the court's protection *ex parte* though withholding material facts to this suit.

The defendant and/or the 2nd respondent have never undertaken any activity on land reference Eldoret Municipality block 7/65 to date and has acted in accordance to the court orders served on it at all material times. The plaintiff's application is fraudulent, misleading, malicious and a total abuse of the court process. The plaintiff cannot therefore purport to seek the court's protection as and when it suits him to the detriment of the defendant and/or 2nd respondent. That the procedure is the hand maiden of justice and as such, the applicants cannot blatantly flout court processes on the one hand and on the other hand invoke the interests of justice.

The *gravamen* of the submissions of **Mr. Nyairo learned counsel for the** applicant is that on the 5.6.2015 the court issued orders in respect of the suit property and the said orders were served by way of substituted service by publication in the Standard Newspaper of 6.6.2015. The defendant/2nd respondent upon service instructed M/s Anassi Momanyi and Company Advocates to act on his behalf and Mr. Momanyi filed a memorandum of appearance on 10.6.2015,. He also filed a replying affidavit and a defence to the claim. The applicant submits that the response by the defendant is an acknowledgment of service of the orders. However, the plaintiff has blatantly disobeyed the court order and has damaged the property the plaintiff carries on business, thus, Eldoret Municipality/Block 7/68.

Specifically on 2.7.2015, the defendant drilled six holes, all which were massive in the slab forming the roof of the space occupied by the plaintiff/applicant; causing the destruction on the premises of the plaintiff/applicant's property, to wit, crockery and consumables; depositing debris and dirt all over the premises occupied by the plaintiff/applicant and interfering with the plaintiff/applicant's business on the same premises to the effect that the plaintiff/applicant was unable to carry out its business activities on the said premises on 2nd July, 2015. On the 2.7.2015, the court was informed of the anomaly as the suit property was mis-described and the court amended its order to refer the Eldoret Municipality/Block 7/68. However, after this amendment, the respondent, his servants and agents under direction of 2nd respondent descended on the premises and cut the metal grills on the display window of the premises occupied by the plaintiff/applicant, removed them and carted them away. Using crude heavy metallic weapons, they shattered the display window and exposed the entire premises occupied by the plaintiff/applicant. Interfered with the plaintiff/applicant's occupation of the leased premises by exposing the plaintiff/applicant to the risk of theft. This is constituted as the second act of contempt.

Mr. Nyairo further submits that an injunction is an order made by the court expressly enjoining a party either to perform a particular act or to refrain from doing a particular act. He referred to **Kindersley V-C** who said that the greatest importance that either an order for an injunction or an interim order should be implicitly observed and diligence exercised to observe it. In a nutshell, Mr. Nyairo submits that the order of injunction must be obeyed unless there is an appeal and an order of stay. In **Refrigeration and**

Kitchen Utensils Ltd Vs J. P. Shah & Another, it was held that it is essential for the maintenance of the rule of law and good order that the authority and dignity of courts are upheld at all times and further that, the court will not condone deliberate disobedience of its orders and will not stay away from its responsibility to deal firmly with contemnors.

The 1st defendant submits that on 5.6.2015, the plaintiff obtained orders against the Land Title No. Eldoret/Municipality/Block 7/65, compelling it to remove any barricades and hoarding erected in the front and rear part and to restore the entire leased premises to its original state; among others. The plaintiff, without cognizance of the respondent's rights, went ahead to abuse the orders by frustrating the respondent and enforcing the said orders on a different property i.e. Land Reference Number Eldoret Municipality/Block 7/68. The respondents, at the time of the alleged contempt were unaware of the court orders and none have been served upon them to-date.

The respondent is the registered and true owner of Land Reference Number Eldoret Municipality/Block 7/64, 7/65 and 7/68, however as stated, the plaintiff had prior to 2nd July, 2015, obtained orders against Land Reference Number Eldoret Municipality/Block 7/65. No orders had been issued against Land Reference Number Eldoret Municipality/Block 7/64 and Land Reference Number Eldoret Municipality/Block 7/68 up until 2nd July, 2015, when orders were issued against Reference Number Eldoret Municipality/Block 7/68. That as admitted by the plaintiff in its further affidavit, it has been a tenant in the 1st respondent's premises for over 26 years, which is quite a considerable period of time hence the plaintiff should be well aware of the facts and again, the respondent has no ill or malicious intentions against it howsoever.

Mr Nthiwa learned counsel for the respondents submits that it is not disputed that there exist a court order against Land Reference Eldoret Municipality/Block 7/68 but the respondents argue that the applicant has failed to prove service of the orders made to prove that the orders have been disobeyed and whether the 2nd respondent is guilty of contempt and whether the plaintiff is entitled to the prayers in the application. On the issue as to whether the defendants were aware of the existence of the court orders, the defendants argue that no personal service was ever effected on the 2nd respondent as directed by the court. There is no affidavit of service on record.

On whether the defendant disobeyed the orders, it is submitted that the respondent at no time interfered with land parcel No. Eldoret/Municipality/Block 7/65. The respondent argues that no order had been issued in respect of Eldoret/Municipality/Block 7/68 until on 2.7.2015. In the court's view, the following issues are ripe for determination:

1. **Whether court orders capable of obedience were granted by this court**
2. **Whether the 2nd respondent was aware of the said court orders.**
3. **Whether the 2nd respondent disobeyed the said court orders.**
4. **What punishment should the court impose.**

WHETHER COURT ORDERS CAPABLE OF OBEDIENCE WERE GRANTED BY THIS COURT.

On the 5.6.2015, after hearing counsel for the applicant ex parte, the court granted an order that:

1. **A mandatory temporary injunction to compel the defendant/respondent to remove the barricades and/or hoarding erected in the front and the rear of the leased premises on Land Title Number Eldoret Municipality/Block 7/65 and to cover up to the original state the dug up pavement and to restore the entire leased premises to its original state as at 28th May, 2015.**
2. **A temporary injunction to restrain the defendant/respondent, its agents, servants, employees and/or any other person acting on its instructions from evicting or in any way interfering with the plaintiff's/applicant's occupation, access to, use or quiet enjoyment of the leased premises on Land Title Number Eldoret Municipality/Block 7/65.**
3. **That this application be served within three (3) days and it be heard on 10th June, 2015.**

4. **That an order be and is hereby issued directing the Officer Commanding Station, Eldoret Police Station, Deputy Officer Commanding Station, Eldoret Police Station and/or Officer in Charge of Eldoret Police Station, the County Government, the Deputy County Commander, Uasin Gishu Government and/or the Officer in Charge of the Uasin Gishu Government to be served with this order and to ensure compliance thereof.**

On the 2.7.2015, after the applicant clarifying that he made an error in respect of the suit parcel of land as the correct number of the suit parcel was Eldoret/Municipality/Block 7/68 and not 7/65, the court extended the interim orders to affect Eldoret/Municipality/Block 7/68. This court finds that there exist and orders of injunction capable of being executed and being obeyed as at 2.7.2015 as at 2.7.2015.

WHETHER THE RESPONDENT WAS AWARE OF THE COURT ORDERS

Upon the issue of the court order, this court ordered that the pleadings and order be served through substituted service as the plaintiff was having hardship serving the director of the defendant. On the 6.6.2015, the pleadings and order were served through substituted service. On the 10.6.2015, the defendant entered appearance and filed an affidavit in reply sworn by Feisal S. Nurani. The filing of the response by the respondent is a confirmation that he was aware of the pleadings and court order by the 10.6.2015 *party who knows of an order, whether null and void, regular or irregular, cannot be permitted to disobey it.*

It would be most dangerous to hold that the counsel could themselves judge whether an order was null and void, whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question, that the course of a party knowing of an order which was null and irregular and who might be affected by it was plain. He should apply to the court that it might be discharged. As long as it existed, it must not be disobeyed.

WHETHER THE RESPONDENT HAS DISOBEYED THE COURT ORDERS

The first act of alleged contempt occurred on the 2.7.2015 at night before court attendance. Thus, the respondent drilled six holes all which were massive in the slab forming the roof of the space occupied by the plaintiff and destroying the plaintiff's property such as crockery and consumables. Moreover, depositing debris and dirt all over the premises occupied by the plaintiff. This amounted to interfering with the plaintiff's business.

After the court attendance, it is alleged that respondent went back to the premises and cut the rental grills on the display window of the premises occupied by the plaintiff and removed and carried them away.

Moreover, it is alleged that they shattered the display window and exposed the entire premises occupied by the plaintiff and interfered with the plaintiff's use of leased property.

On this issue, I do find that the respondents were aware of the order issued on the 5.6.2015 as the same was explicitly advertised in the newspapers and that pleadings and order was served through substituted service and that the respondent instructed an advocate to file a Memorandum of Appearance and pleadings which were filed on 10.6.2015. Hence the act done on 2.7.2015 were done with the knowledge that there existed a court order.

However, the order was made in error as the suit property was incorrectly described as ***Eldoret/Municipality/Block 7/65***, as opposed to Eldoret/Municipality Block 7/68. Mr. Nyairo acknowledged the error and immediately applied for correction of error as the subject property is Eldoret/Municipality/Block 7/68. This court issued an order in the presence of counsel for the plaintiff and counsel for the defendant correcting the parcel of land in dispute as Eldoret/Municipality/Block 7/68 and extended the interim orders to the said property.

The applicant allege that the second act of contempt occurred on 2.7.2015 at 3.00 p.m. after

parties attending court. This court finds that the respondent was aware of both orders of the court however he cannot be found guilty for contempt on the first act of contempt, but he cannot be exonerated on the second act which occurred at 3.00 pm as he was aware that the order was corrected to apply on parcel no Eldoret/Municipality/Block 7/68.

The respondent argues that when the court extended the interim orders on 2.7.2015, he stopped all activities on the parcel of land known as Eldoret/Municipality/Block 7/68 and therefore, he is not in contempt of court.

In **Mutika vs. Baharini Farm Ltd [1985] KLR 227**, it was held that the standard of proof in contempt matters is higher than a balance of probability but not exactly beyond reasonable doubt. In some cases, however the “*beyond reasonable doubt*” standard has been invoked. In the case before me, I am more than satisfied that the plaintiff has discharged this burden as he has demonstrated that the respondent did the second act of contempt when he went and destroyed the grills and the display windows of the premises. When an individual has been served with and/or has knowledge of an Court Order but not only ignores it but in fact incites others to do the same, the threshold for contempt has been met.

The question I should ask myself is whether the applicant has discharged this burden thus whether there were any further activities by the respondent after court session on 2.7.2015.

I have looked at the photographs allegedly taken in the morning of 2.7.2015 and the photographs taken after 3.00 p.m. and do find that it is clear that the photographs are evidence that the actions of the respondent were of a person who had little respect for the court. Time and time again, our Courts have looked to the decision in **Hadkinson vs. Hadkinson [1952] All E.R. 567** as expressing the law on the subject of contempt of Court Orders. It was held thus;

“It was the plain and unqualified obligation of every person against, or in respect of, whom an order was made by a Court of competent jurisdiction to obey it unless and until it was discharged, and disobedience of such an order would, as a general rule, result in the person disobeying it being in contempt and punishable by committal or attachment and in an Application to the Court by him not being entertained until he had purged his contempt;

The Court would only refuse to hear a party to a cause when the contempt impeded the course of justice by making it more difficult for the Court to ascertain the truth or to enforce its orders and there was no other effective means of securing his compliance. The Court might then in its discretion refuse to hear him until the impediment was removed or good reason was shown why it should not be removed.”

The reasoning of the learned judges in that case (Somervell, Denning and Romer, L.JJ) is plain and obvious; of what use are Court Orders if those to whom they are directed, look at them with disdain? How can the dignity and independence of the Courts be maintained if the Orders they issue are contemptuously ignored?”

5. WHAT PUNISHMENT SHOULD THE COURT IMPOSE.

The Environment And Land Act Cap 12A Laws Of Kenya provides that any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding two years, or to both. The orders of this court were made under the provisions of section 13(7) of the Act which provides that-

In exercise of its jurisdiction under this Act, the Court shall have power to make any order and grant any relief as the Court deems fit and just, including—

(a) interim or permanent preservation orders including

injunctions;

(b) prerogative orders;

(c) award of damages;

(d) compensation;

(e) specific performance;

(g) restitution;

(h) declaration; or costs

The applicant prays that the 2nd respondent be committed to jail for six months for contempt of court or to compel him obey the law. The applicant further prays that the respondents be ordered to pay a fine of Kenya Shillings Five Hundred Thousand which is the approximate cost of physical damaged caused by the respondent. The applicant prays for restitution to the original state of the premises occupied by the plaintiff as at the date of the first act of contempt. The applicant also prays for an order of attachment of the alleged contemnor's property and accounts in any bank or debts with any debtor within the country to prevent the ends of justice from being defeated or to satisfy court orders. I have considered the prayers herein and find that the court has the power to punish disobedience of the court orders herein as an offence under section 29 of the act by imprisonment for a term not exceeding 2 years or a fine not exceeding twenty million shillings. Ultimately, having found that the 2nd respondent's acts amounted to contempt of court, I do order that he serves a prison term for a period of 3 months or pays a fine of Kenya shillings six hundred thousand (Kshs.600,000) only. Moreover, the defendants to repair the property by filling up the drilled holes, repairing the grills and the display windows and within the next 30 days.

DATED AND DELIVERED AT ELDORET THIS 4TH DAY OF MARCH, 2016.

ANTONY OMBWAYO

JUDGE