



Kamau v Godoro & another; Abihanif & another (Interested Parties) (Environment & Land Case 187 of 2014) [2024] KEELC 3916 (KLR) (16 May 2024) (Ruling)

Neutral citation: [2024] KEELC 3916 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 187 OF 2014**

**A OMBWAYO, J
MAY 16, 2024**

BETWEEN

HADIJA NJERI KAMAU PLAINTIFF

AND

ABDALLA TAIRARA GODORO 1ST DEFENDANT

HERODHO SHEIKH BIN SHEIKH 2ND DEFENDANT

AND

MAIMUNA ABIHANIF INTERESTED PARTY

ZAINABU ABDALLA INTERESTED PARTY

RULING

1. Hadija Njeri Kamau has come to court vide application dated 4th March 2024 seeking orders that:-

This application be certified as most urgent and be granted a hearing date on priority basis.

The Defendant/ Respondent be committed to prison for a period of six (6) months or for such a period as would be deemed necessary by this honorable court for being in contempt of Court by disobeying and breaching orders granted on 21st June 2022.

Costs this application be the Respondent-

2. The application is based on grounds that:-

The 1st defendant/respondent herein is in contempt of court orders issued on 21st June, 2022 by failing to act positively to comply with the court order.



The 1st defendant/respondent herein was are of the court orders since the same were by consent of parties and even went ahead to propose signing of Deed of Settlement indemnity and Guarantee by his family and the plaintiff.

The 1st defendant/respondent through its advocate on record entered into a consent on 21st June 2022 which the same was adopted as orders of the court.

3. Clause 2 of the consent order stated that Maimuna Abihanifa Godoro and Zainabu Abihanifa Godoro were to voluntarily and irrevocably transfer their interests in properties known as Title No. Juja/ Kalimoni Block 2/144 and Title No. Juja /Kalimoni Block 2/191 respectively to the applicant herein.
4. Clause 3 of the consent order stated that the 1st defendant herein Abdalla Tairara Godoro was to clear all pending land rents, land rates, pay stamp duty on transfer and any outstanding dues to Thika Muslim Co-operative Housing Society Ltd in respect to properties known as Title No. Juja/ Kalimono block2/144 and Title No. Juja/ Kalimoni Block2/191 respectively on behalf of the applicant herein and the conveyance process was to take ninety (90) days form the date of the consent.
5. The 1st defendant has since refused to comply with the said orders while on the other hand enjoying the fruits of his fraudulent transaction on the plaintiffs/Applicant property.
6. The 1st defendant has continued to defy the said curt orders with impunity despite knowledge of the court orders which has led to anxiety and paralyzing of the operations of the plaintiff.
7. Unless the orders sought are granted, the dignity and authority of the court will be in disrepute and the culture of impunity will thrive.
8. In the supporting affidavit the applicant states:-

He is an adult female of sound mind and disposition competent to swear this affidavit.

He was aware that a consent order was entered by both parties herein on 21st June, 2022 and of which was adopted as orders of the court.
9. The 1st defendant/Respondent herein is in contempt of court order issued on 21st June, 2022.
10. The 1st defendant/Respondent herein was aware of the court orders and even went ahead to propose signing of Deed or Settlement, Indemnity and Guarantee by his family to my client.
11. The 1st defendant/respondent through its advocates on record entered into a consent on 21st June, 2022 which the same was adopted as orders of the court.
12. Clause 2 of the consent order stated that Maimuna Abihanifa Godoro and Zainabu Abihanifa Godoro were to voluntarily and irrevocably transfer their interests in properties known as Title No. Juja / Kilimoni Block 2/144 and Title No. Juja/ Kalimoni Block 2/191 respectively to the applicant herein.
13. Clause 3 of the consent order stated that the 1st defendant herein Abdalla Tairara Godoro was to clear all pending land rents, land rates, pay stamp duty on transfer and any outstanding dues to Thika Muslim Co-operative Housing Society Ltd in respect to properties known as Title No. Juja/ Kilimoni Block 2/144 and Title No. Juja/ Kalimoni Block2/191 respectively on behalf of the applicant herein and the conveyance process was to take ninety (90) days from the date of the consent.
14. The 1st defendant has since refused to comply with the said orders while on the other land enjoying the fruits of his fraudulent transaction on the plaintiffs/Applicant property.



15. The 1st defendant has continued to defy the said court orders with impunity despite knowledge of the court orders which has led to anxiety and paralyzing of the operations of the plaintiff.
16. Unless the orders sought are granted, the dignity and authority of court will be put in dispute and a culture of lawlessness and impunity will thrive killing the social fabric and social order embedded on respect on rule of law.
17. I do aver that Kenya is not a banana republic but a constitutional democracy anchored on rule of law which every citizen and government organs must comply with and there should be no exception unless as may be provided in law.
18. Uphold the rule of law, the dignity and authority of court, 1st defendant/respondent should be compelled to issue an election notice and in the alternative he be committed to civil jail for being in contempt of lawful court orders.
19. The applicant undertakes to pay for requisite cost of the contemnors if committed to civil jail.
20. The application is not opposed. The 1st respondent has not filed a replying affidavit dispute being served.
21. I do find that applicant has demonstrated that the 1st respondent has disobeyed this court orders granted on 21st June 2022. The 1st respondent Abdalla Tairara Godoro is hereby sentenced to jail for a period of 3 months.
22. In the alternative the 1st respondent to pay a fine of Kshs300,000/=

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 16TH DAY OF MAY 2024.

A O OMBWAYO
JUDGE

