



**Kenya National Union of Nurses v County Public Service Board of Nakuru & another;
County Secretary, Dr Samuel Mwaura & 2 others (Contemnor) (Employment and Labour
Relations Cause E029 of 2023) [2024] KEELRC 1313 (KLR) (28 May 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1313 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
EMPLOYMENT AND LABOUR RELATIONS CAUSE E029 OF 2023**

**HS WASILWA, J
MAY 28, 2024**

BETWEEN

KENYA NATIONAL UNION OF NURSES APPLICANT

AND

COUNTY PUBLIC SERVICE BOARD OF NAKURU 1ST RESPONDENT

NAKURU COUNTY GOVERNMENT 2ND RESPONDENT

AND

THE COUNTY SECRETARY, DR SAMUEL MWAURA CONTEMNOR

**THE SECRETARY/CHIEF EXECUTIVE OFFICER OF THE BOARD JOYCE
NDEGWA CONTEMNOR**

**THE CHIEF OFFICER HEALTH SERVICES DR JOHN
MURIMA CONTEMNOR**

RULING

1. This Ruling is in respect of the contempt application dated 15th December, 2023, brought pursuant to Section 5(1) of the *Judicature Act*, Section 3A of the *Civil Procedure*, Order 40 Rule 3 of the *Civil Procedure Rules*, Rule 32 (2) of the *Employment and Labour Relations Court [Procedure] Rules* 2016, Part 81.1, Rule 81.1 of the *English Civil Procedure Rules (Amendment No. 3) Rules*, 2020 and all other enabling provisions of the law, seeking for the following Orders; -

1. Spent.
2. That, this honourable court be pleased to issue show cause to the Contemnors the County Secretary, the Secretary/Chief Executive Officer of the Board and the Chief Officer Health



Services for contempt of court having deliberately disobeyed orders given under the hand and seal of this Honourable Court at Nakuru on 27th July, 2023.

3. That this Honourable Court be pleased to cite and punish by issuance of order of committal to civil jail against Dr. Samuel Mwaura, Ms Joyce Ndegwa and Dr. John Murima the 1st, 2nd and 3rd Contemnors for a period of 6 months for disobeying court orders issued by this Honourable Court on 27th July, 2023.
 4. That Dr. Samuel Mwaura, Ms Joyce Ndegwa and Dr. John Murima the 1st, 2nd and 3rd Contemnors be denied audience on this Court completely till they purge the Contempt herein in terms of allowing the casual/contract nurses to continue rendering services as per the court Order dated 27th July, 2023.
 5. That this Honourable Court be pleased to direct, Ms. Joyce Ndegwa the Secretary/Chief Executive Officer of the Board to allow the casual/contract nurses to continue rendering services as per the court order dated 27th July, 2023 until the hearing and determination of this Application.
 6. Any other order of this Honourable Court geared towards protecting the dignity and authority of the Court and sanctity of the Law.
 7. That costs of this application be borne by the Respondents.
2. The Application is based on the grounds on the face of the Application and the supporting affidavit of Eudius Nyambura, the Applicant's industrial Relations officer, sworn on 15th December, 2023.
 3. The deponent stated that by Orders of this Honourable court issued inter partes on 27th July, 2023, the Court *inter alia* stayed the implementation of the circular of reference DOHS/COMEHS/ 31/5/11 dated 31st May, 2023 and ordered the casual contract nurses to continue rendering services pending hearing and until determination of the Claim.
 4. That the said Orders had a penal notice notifying the Respondents of the consequences of such disobedience of the orders of this Court issued on 27th July, 2023 the terms which this Honourable Court should now actualize.
 5. It is stated that the Respondents and particularly, the contemnors were duly served with the Court Orders through their office and also through their counsels on record on 28th July, 2023 together with the Penal Notice and therefore have full knowledge of the existence of the orders.
 6. Despite service, the Respondents/Contemnors have since 28th July, 2023 deliberately and most contumeliously breached and disobeyed the orders of this Honourable court by failing to stay the implementation of the circular of reference DOHS/COMHS/31/5/1 dated 31st May, 2023 and the casual/contract nurses to continue rendering services pending hearing and until determination of the Claim.
 7. Due to this disobedience of Court Order the Respondents and Contemnors have exposed the Applicant's members to immense and severe loss of livelihood and intense economic hardship.
 8. she states that no reasonable justification has been tendered by the Respondents/Contemnors for this disobedient conduct, and in the absence of legitimate grounds, the Contemnors' disobedience is illegal, unconstitutional and an abuse of the Court.
 9. She reiterated that the Contemnors through their Counsel on record have bluntly and publicly vowed not honour the orders of this Honourable court *vide* a newspaper publication dated 24th August, 2023.



10. It is her position that the Contemnors being the County Secretary, the Secretary/Chief Executive Officer of the Board and the Chief Officer Health Services are duty bound to implement the order of this court issued on the 27th July, 2023.
11. In view of the foregoing, she urged this Court to summon the relevant officers of the Respondents to show cause why they should not be committed to civil jail for blatantly failing to comply with Orders of this honourable Court.
12. She avers that the Orders of the Court are still in force as no review and or appeal has been preferred. Additionally, that it is in the interest of justice that the Orders sought are granted.
13. The Application herein is opposed by the 2nd Respondent through a replying affidavit sworn by Dr. John Murima, the 3rd Contemnor, on the 12th February, 2024. In the affidavit the affiant stated that he is the Chief Officer in charge of Medical Services in Nakuru County Government.
14. He stated that this Court on 27th July 2023 issued orders for stay of implementation of circular reference DOHS/COMHS/31/5/1 dated 31st May 2023 which took effect on 30th June, 2023 and the 2nd Respondent has subsequently engaged/retained health workers who have already taken up their places in service of the people of Nakuru on contractual basis.
15. Prior to this, he wrote to inform the Medical Superintendents and Sub-County Lead Teams of the imminent expiry of the short term contracts by my letter dated 31st May 2023.
16. He maintains that there is no obligation to explain the reason for failure to renew such a contract as was stated in Civil Appeal No. 81 o 2018 *Transparency International-Kenya Vs. Teresa Carlo Omondi*, as there is no obligation to explain the reason for failure to renew such a contract.
17. He stated that the Orders granted by the court are therefore incapable of execution as they seek to stay an action that has already taken place. Further that the stay Orders granted cannot be used to reverse what has taken place as the nurses in question have severed ties with the 2nd Respondent with their terminal dues already paid.
18. He stated that an essential element to contempt of court proceedings is that the alleged contemnors must have acted in wilful and deliberate disobedience or breach of orders issued by the court. On the contrary that the Order of the Court issued on 27th July, 2023 have been overtaken by events since the circular reference took effect on 30th June 2023, prior to the issuance of the Court Orders, hence the Respondents cannot be said to have acted in wilful and deliberate disobedience as the orders are incapable of execution.
19. It is on this basis, that the affiant prayed for the Application herein to be dismissed with costs.
20. The 1st Respondent also filed a replying affidavit sworn by Joyce, N. Ndegwa, the 2nd Contemnor, on the 6th February, 2024.
21. She began by stating that Eudius Nyambura, the deponent in this application is not an employee and has never been an employee of Nakuru County Government or the Nakuru County Public Service Board.
22. She stated that indeed the Court issued Order staying the implementation of the circular reference DOHS/ COMHS/31/5/1 dated 31/5/2023 and the casual/ contract nurses to continue rendering services pending hearing and determination of the Claim.



23. She stated that the order of this honourable court was issued on the basis that there was no response from the Respondents on record. Unfortunately, this was not the case as there was a preliminary objection on record dated 6/7/2023 and filed on the same date by the 1st Respondent raising among other issues jurisdiction of the honourable court.
24. She avers that in granting the said order, the honourable court denied the constitutional right of the Respondents to be heard and the court to determine their preliminary objection before issuing any orders.
25. It is her position that although she was not addressed or copied in the subject letter reference DOHS/COMHS/31/5/1 dated 31/5/2023, she is aware that the communication was addressed to Medical Superintendents and Sub county team leads to bring to the attention of the persons engaged on 3-months contract of the coming to an end of their contracts on 30/6/2023. Therefore, by the time the aforementioned orders were obtained on 27/7/2023, the communication had already been done, the short term contracts came to an end and the nurses left employment of the Respondents.
26. The affiant stated that the Applicant herein, as a matter of its duty of candour' before the honourable court, ought to have disclosed that the subject nurses were no longer in the employment of the Respondents but chose to conceal that fact.
27. It is stated that despite the order making references to nurses on casual terms, the Board always engaged nurses on contractual and pensionable basis only.
28. She stated that being dissatisfied with the orders of this honourable court, the 1st and 2nd Respondents immediately filed twin applications seeking to set aside or review the orders of this honourable court dated 31st July, 2023. Despite the existence of these twin applications, the Applicant continue to mislead this honourable court that no application to set aside is pending.
29. She explained further that the 1st Respondent's application to set aside and or review the order of this court made on 27/7/2023 is pending ruling by this honourable court.
30. The affiant contends that the Applicant's conduct has been mischievous in conflating the issues and in bad faith and this Honourable Court should dismiss the Application with costs.
31. In view of the foregoing, the Affiant sated that the instant application is premature, unwarranted, unjust and frivolous in nature and a superlative waste of time for this Honourable Court and the judicial process.
32. In a rejoinder, the Applicant filed a further Affidavit sworn on 25th April, 2024 and reiterated the Application and stated that the deponent of Applicant Union is not deponing as an employee of the 1st Respondent but as an authorized officer of the Claimant Union as prescribed under section 2(e) of the *Labour Relations Act*.
33. She stated that the Matter came up for mention on the 10th July, 2023 where the Honourable Judge directed that the Application and the Preliminary Objection be heard together, and the Respondents put in their response within 7 days, which the Applicant put in their Submissions within the next 7 days and another 3 days for a rejoinder. The 1st Respondent's counsel was in court on this day and therefore not try to mislead the honourable court which is in possession of the proceedings in this matter.
34. She avers that the circular of REFOHS/COMHS/31/5/1 dated 31st May, 2023 addressed to the medical superintendents purporting to bring to the attention of the persons engaged on the 3 months' contract coming to an end was illegal ab initio and is usurping the mandated of the Chief Executive Officer/ Secretary of the Board. Further that the said communication was aimed at terminating their



members irregularly by the officer of medical services undersigned therein without the knowledge of the C.E.O/ Secretary and the Board who is the employer as prescribed in the [County Government Act](#) Section 59 and 59A.

35. She stated that her understanding of Section 35 of the *Employment Act* on termination of notice, the law requires the employer to write to the employee directly and not through proxies as seen in this case through the impugned circular.
36. The affiant avers that indeed the orders staying the circular were issued on the 27th July, 2023, however, the Applicant had approached Court *vide* an Application dated 29th June, 2024 for an *ex-parte* order which was issued inter-parties on the 27th July, 2024, therefore, the respondents claim on the date the order was issued has not basis and should not be entertained by this Honourable court.
37. Contrary to the Respondent's allegations, the deponent stated that no termination notice was issued to their members as prescribed under Section 35 of the *Employment Act* and without such Notice, one is deemed to be in employment until when such a notice is issued. Further, the stayed circular was directed to the medical superintendents and not to individual employees and therefore the respondent is put to strict proof.
38. The Affiant denied the existence of review Application by the Respondent and stated that if indeed such an application was filed then they were not aware as it was never served upon them.
39. The affiant stated that the 1st Respondent never sought directions of court in regards to the said Application until the day the ruling of the 2nd Respondent's Applicant dated 31st July, 2023 where the 1st Respondent purported the existence of another review Application, which court directed them to move the court but that since then no action has been carried out on the purported application.
40. She maintained that the only review application, she is aware of is the 2nd Respondent's dated 31st July, 2024 which was heard together with the 1st Respondent Preliminary Objection dated 6th July, 2023 as per the court's directions. In any case that the one attached to the Replying affidavit does not bear the stamp of the Court.
41. The Application herein was canvassed by written submission, with the Applicant filling on 7th May, 2024 and the 1st Respondent filed on 7th May, 2024. While the 2nd Respondent filed on 24th April, 2024.

Applicant's Submissions

42. The Applicant submitted that there are essentially four elements that must be proved in civil contempt and they are as follows; the terms of the order (or injunction or undertaking) were clear and ambiguous and were binding on the defendant, the defendant had knowledge of our proper notice of the terms of the Order; the defendant has acted in breach of the terms of the Order and the defendant's conduct was deliberate.
43. Based on these elements, the Applicant submitted on four issues; whether the terms of the orders of this court were clear and unambiguous and were binding, whether the Respondent had knowledge of or proper notice of the terms of the order, whether the defendant has acted in breach of the terms of the order, whether the Respondent's conduct is deliberate, whether the terms of the order of this Court were clear and unambiguous and were binding.
44. On the first issue, it was submitted that the above orders are very clear and unambiguous as they are directed to the Contemnors who have Human Resource Functions. The action required was to stay the impugned Circular by the 3rd Contemnor under the directive of the 2nd Contemnor who is the C.E.O board and under the receivership of the 3rd Contemnor who is the head of public service in the



county government of Nakuru. The Order was therefore binding to the three contemnors. Therefore, that the Order was clear and unambiguous.

45. On whether the contemnors had knowledge of the terms of the Orders, it was submitted that the order was issued inter-partes and hence the Respondents were fully aware of the same. Nevertheless, the order was physically served on the Respondents and a return of service is properly on record. Moreover, that the parties have since appeared before the Honourable Court pursuing the implementation and review of the Order, a further confirmation of knowledge of the existence of the said Orders.
46. On whether the contemnors acted in breach of the said Order, it was submitted that the contemnors refused to stay the implementation of the impugned circular to date in breach of the Court Order.
47. On whether the conduct is deliberate, it was submitted that the contemnors herein have all admitted being aware of the terms of the Order but refused to comply on the pretext that the Orders are overtaken by events, when such was never brought to the attention of this Court to determine whether the stay Order are capable of being executed or not. He added that disobedience of court orders is not only injurious to the person in whose favour the Order has been issued but it is also an affront to the rule of law and the dignity of the court. In this, the Applicant relied on the decision by G.V Odunga J in the case of *Republic vs The Kenya School of Law and others* Miscellaneous Application No.58/2014 and the case of *Principal Secretary, Ministry of Defence* (Miscellaneous Application No.276 of 2015) in which Odunga quoted with approval quoted the holding in *Teacher's Service Commission Vs Kenya National Union of Teachers & Others* Petition No 23. of 2013 where it was held: -

“Court orders are not meant for cosmetic purposes. They are serious decisions that are meant to be and ought to be complied with strictly...the reason why courts will punish for contempt of court is to safeguard the rule of law which is fundamental in the administration of justice. It has nothing to do with the integrity of the judiciary or the court or even the personal ego of the presiding judge. Neither is it about placating the applicant who moves the court by taking out contempt of court proceedings. It is about preserving and safeguarding the rule of law. A party who walks through the justice door with a court order in his hands must be assured that the order will be obeyed by those to whom it is directed. A court order is not a mere suggestion or an opinion or a point of view, It is a directive that is issued after much thought and with circumspection. It must therefore be complied with and it is in the interest of every person that this remains the case. To see it any other way is to open the door to chaos and anarchy and this Court will not be the one to open that door. If one is dissatisfied with an order of the court, the avenues for challenging it are also set out in the law. Defiance is not an option.”

48. The Applicant further relied on the case of *Council of Governors vs Seth Panyako and others* (Cause No. 69 of 2019) and argued that having established all the ingredients of contempt, the Application herein should be allowed and the contemnors found in contempt for disobeying the Court Orders.

1st Respondent's Submissions.

49. The 1st Respondent gave the chronology of the events leading to the contempt application herein and argued that the Court issued the order on the basis that the Respondent had not filed a response to application dated 29/6/2023 which was on the contrary because there was notice of preliminary objection on record dated 6/7/2023 filed by the 1st Respondent. Therefore, that the 1st Respondent had been condemned unheard. He Argued that the Applicant herein, having been served with the Preliminary Objection ought to have appraised the Court with that fact instead of misleading the Court.



50. The Respondent maintained that the Orders subject of the Contempt herein were issued on 27th July, 2023 about a month after the subject Circular had taken effect on 30th June, 2023. Hence it had been Overtaken by event and the Orders could not be used to stay a past event. To support this, the Respondent relied on the case of *R(H) -vs-Ashworth Special Hospital Authority* [2003] 1 WLR 127 where Dyson L. J held as follows:-

“I now turn to the third situation, which occurs where the decision has not only been made, but is has been carried out in full.... How can one say of a decision that has been fully implemented that it should cease to have effect? Once the decision has been implemented, it is a past event and it is impossible to suspend a piece of history”

51. He also relied on the case of *Peter Maosa Nyang'au v National Bank of Kenya Ltd & another* [2021] eKLR , where the honourable judge observed that:-

“In paragraph (27) of the replying affidavit, the 2.4 Respondent has deponed that he has already “taken possession of the premises and thus stay orders cannot be granted.” That averment was not rebutted and so the fear of eviction is no longer a threat. The Court cannot stay what has already occurred.”

52. On that basis, he argued that the decision to stay the memo by honourable does not in any way equate to re-instating the nurses to employment or reappointment of nurses. In any event that the subject nurses were on a short term contract that lapsed and the Respondent is not obligated in law to renew the same.

53. He argued that in spite of the material non disclosures and concealment of fact by the Applicant, the 1st Respondents filed twin applications seeking to set aside and or review the orders both dated 31st July 2023, which parties filed submission and even highlighted the same on 30/10/2023 and ruling delivered on 19/12/2023. A confirmation that mitigation measures were taken against the said Orders.

54. It was argued further that having filed applications for review the Respondents cannot be found to be in contempt. In any case that there was no wilful and deliberate disobedience of a court order as was stated in the case of in *Jimi Wanjigi & another v Inspector General of Police & 3 others* [2021] eKLR that:-

“In this case, it would readily come to the fore to any person directing his or her mind to the rule of law and the circumstances of the matter, that the best cause of action was for any party who is dissatisfied with any order of the Court to either lodge an appeal and seek stay orders or seek to review the said orders. In so doing, one will be playing within the confines of the rule of law.”

55. Finally, it was submitted that the Applicant has not demonstrated in what manner the cited persons have disobeyed court orders. On the contrary, that the Applicant is inviting this court to issue orders in vacuo. On that note, the 1st Respondent urged this Court to dismiss the Application with costs.

2nd Respondent's Submissions

56. The 2nd Respondent submitted on two issues; whether the 2nd Respondents is in contempt of Court Orders and whether the Applicant has proved the elements of Civil contempt to the required standards.



57. On the first issue, it was submitted that the impugned circular took effect on 30th June, 2023, before the Orders of the Court were issued, therefore the Respondent cannot be said to be in contempt of Court Orders. To support this, the Respondent cited the South African case of *Kristen Caral Burchel v Barry Grant Burchell* which was cited in the case of [Samuel M. N. Mweru & Others V National Land Commissions and 2 Others](#), where the Court held that;-

“the terms of the Order, knowledge of these terms by the respondent and failure by the Respondent to comply with the terms of the orders upon proof of these requirements the presence of wilfulness and bad faith on the part of the Respondents would usually be inferred.”

58. The Respondent submitted on the four elements of contempt and with regard to the terms of the Order being clear, he argued that he does not contest the terms delineated in the Orders, however that he did not have knowledge and proper notice of the terms of the Order, because they were pronounced subsequent to the enforcement of the circular. In support of this, the Respondent relied on the case of *Ex parte Langely* 1879 as cited in [James Gachiri Mwangi v John Waweru Muriuki & 3 Others](#)[2020] eKLR where Thesinger L.J stated as follows

“the question in each case and depending upon the particular circumstances of each case, must be, was there or was there not such a notice given to the person who is charged with contempt of Court that you can infer from the facts that he had notice in fact of the order which had been made and in a matter of this kind, bearing in mind that the liberty of the subject is to be effected, I think that those who assert that there was such a notice ought to prove it beyond reasonable doubt.”

59. The Respondent also relied on the case of [Sheila Cassatt Issenberg & another v Antony Machatha Kinyanjui](#) [2021] eKLR, where the Court held that;-

“Due to the gravity of consequences that ordinarily flow from contempt proceedings, it is proper that the order be served and the person cited for contempt should have had personal knowledge of that order.”

60. Accordingly, that the 2nd Respondent did not breach the terms of the Orders because it was not in existence at the time the circular was taking effect.

61. On whether the action of the Respondent herein was deliberate, it was argued that the person alleging that action to be deliberate had to prove wilful and intentional disobedience as was stated in the Supreme Court of India case of [Mabinderjit Singh Bitta V Union of India & Others](#) as cited in the case of [MNN Vs JMM](#) and also the case of [Samuel M. N. Mweru & Others V National Land Commissions and 2 Others](#)[2020] eKLR, where the Court held that;-

“the refusal to obey should be both wilful and mala fides, and that unreasonable non-compliance, provided it is bona fide, does not constitute contempt – accord with the broader definition of the crime, of which non-compliance with civil orders is a manifestation. They show that the offence is committed not by mere disregard of a court order, but by the deliberate and intentional violation of the court’s dignity, repute or authority that this evinces.”

62. Accordingly, that the subject Court Orders were rendered unenforceable because it was to stay an action that had already transpired.



63. On whether the Applicant had proved the elements of civil contempt, it was argued that Civil Contempt ought to be proved on a standard higher than that of balance of probability as was held in the case of *Katsuri Limited vs Kapurchand Deepar Shah* [2016] eKLR and the case of *Mutitika vs Baharini Farm Limited*[1985] eKLR.
64. In Conclusion, the Respondent submitted that the Applicant had failed to prove its case to the required standard and considering that the Orders were issued after the circular had taken effect, the respondents are not in contempt. The Respondent herein urged this Court to dismiss the contempt application with costs.
65. I have examined all the averments and submissions of the parties herein. The application by the applicant union is for contempt of court wherein the applicants aver that the respondent contemnors are guilty of contempt. The applicants have submitted that the Respondents contemnors are guilty of disobeying this court's orders dated 29th July 2023 wherein this court issued orders staying the implementation of circular reference no. DOH S/COMEHS/31/5/11/ of 31/5/2023.
66. The Respondents on their part aver that the orders granted were not capable of being stayed as they had already been implemented. They therefore aver that they were not in contempt at all.
67. On 27/7/2023 this court issued allowing prayer No 3 pending the hearing and determination of this application interpartes. Prayer No 3 was as to the effect that the court stayed the implementation of the circular Reference No. DOHS/COMHS/31/5/1 dated 31/5/2023 and the casual contract nurses were to continue rendering services pending hearing and until determination of the claim annexed to the application.
68. The circular dated 31/5/2023 stated as follows: -
- “ End Of Contract – Technical Hospital Contracts
- Reference is made to the County Public Service Board letter; Ref No: (GN/NCPSB/CAS/CONT/VOL.IV) dated 29th March 2023 engagement of all Hospital Technical Contract engaged on Short Term Basis will end on 30th June 2023.
- You are hereby required to inform the affected officers working under your supervision.
- Meanwhile, the County Government will declare positions for the above positions through the County Public Service Board hence advise them to apply once they are advertised as per the attached vacancies.
- We hereby wish to appreciate the services rendered by the above hospital technical contract staff on improving service delivery at the respective facilities.”
69. It is worth noting that the circular was addressed to all medical superintendents and all Sub-County team leads. It was authored by Dr. Murima John the Chief Officer Medical Services.
70. The circular was terminating employment of staff engaged on short term basis, till 30th June 2023. The Applicants had also exhibited exhibit EW. 6 a report on a petition for retaining circulated medical staff by the County Government of Nakuru dated September 2020 which report was made by the Second Assembly Fourth Session which committee recommended that the Department of Health Services consider absorbing the staff who were on contract to Permanent and Pensionable basis.
71. Despite the Respondents averring that the circular had already been implemented, they didn't exhibit any evidence that the contents of the circular had been brought to the attention of the claimants' members. There is no notice to them to indicate their employment was coming to an end.



72. Despite the Respondents also averring that the orders were incapable of implementation they filed no appeal on the same orders. They filed a review application on 31/7/2023 which they have never prosecuted to date. The orders of the court dated 27/7/2023 are still therefore in place and the assertion by the Respondent is erroneous.
73. That the Respondents had knowledge of the order of 27/7/2023 is not denied. The said orders were issued on 27/7/2023 in court in the presence of counsels for the Respondents, Okoth holding brief Prof. Ojienda Senior Counsel and Nyambura for the Claimant.
74. The Respondents contended that they have not acted in wilful disobedience of the orders of this court because the orders have been overtaken by events.
75. As explained above, the impugned circular was addressed to All Medical Superintendents and All Sub County team heads. It contends to be brought to the attention of the Claimant members. There is no indication that this was done.
76. In the absence of any evidence that the contends were brought to the attention of the claimants' members, the assertion that the orders of the court were overtaken by events cannot lie.
77. It is therefore my finding that indeed the Respondents contemnors are guilty of contempt in relation to this court's orders dated 27/7/2023 and are therefore liable to punishment. Costs in the cause.

RULING DELIVERED VIRTUALLY THIS 28TH DAY OF MAY, 2024.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of: -

Nyambura for Claimant – Present

Kihoro for 1st Respondent – Present

Okere for 2nd Respondent – Absent

Court Assistant - Fred

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