



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 781 OF 2017

(Before Hon. Justice Hellen S. Wasilwa on 18th September, 2019)

VIRGINIA KALUKI KALWE.....CLAIMANT/APPLICANT

-VERSUS-

CHRISTOPHER MUTINDA MUTUAL.....1ST RESPONDENT

KENYA COUNTY GOVERNMENT WORKERS

UNION MACHAKOS BRANCH.....2ND RESPONDENT

AND

KENYA COUNTY GOVERNMENT WORKERS UNION.....INTERESTED PARTY

RULING

1. The Application before this Court is a Notice of Motion filed on 3rd May 2019, under the provisions of Sections 12 and 13 of the Employment and Labour Relations Court. The Applicant seeks the following orders:-

1. *Spent*

2. ***THAT Contempt proceedings commence against Christopher Mutinda Mutua the 1st Respondent for failing to comply with the terms of Ruling dated and delivered on 9th March 2018.***

3. ***THAT Christopher Mutinda Mutua the 1st Respondent be committed to civil jail for a term to be determined by this honourable court for failing to comply with the terms of Ruling dated and delivered on 9th March 2018.***

4. ***THAT the Court issue an order that Christopher Mutinda Mutua be compelled to fully comply with the terms of the Ruling dated and delivered on 9th March 2018.***

5. ***THAT the costs of this application be borne by the Respondent.***

2. The Application is premised on the grounds that Christopher Mutinda Mutua was properly served with the Order on 12th April 2018 reinstating the Applicant to her position as Union Branch Women Representative of the 2nd Respondent. That the contemnor herein is setting a bad precedent to the administration of justice and that the Court Order was very clear. Further grounds are that pursuant to the leave of the Court, the Court directed that contempt proceedings do commence against the Contemnor and the Orders of the Court must be complied with.

3. The Application is supported by the Applicant's Affidavit sworn on 15th April 2019 in which she reiterates the grounds set out on the face of the application. The application is unopposed and none of the parties filed written submissions. The Applicant therefore urged the Court to allow the application as prayed.

4. I have examined all the averments before me. Vide this Court's order dated 9.3.2018, this Court ordered reinstatement of the

Claimant/Applicant to her position.

5. The application for contempt was instituted against 1st Respondent when he failed to reinstate her. I made a ruling on this contempt application on 25/2/2019 and ordered the 1st Respondent be cited for contempt. The application before me is therefore resjucata and I dismiss it accordingly.

Dated and delivered in open Court this 18th day of September, 2018.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Nyachoka holding brief Mbuvi for Applicant – Present

Respondent – Absent