

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NYERI

APPLICATION NO. 423 OF 2017

THARAKA NITHI COUNTY GOVERNMENT.....1ST RESPONDENT/APPLICANT

THARAKA NITHI PUBLIC SERVICE BOARD.....2ND RESPONDENT/APPLICANT

VERSUS

EUSTACE NDEKE KAMUNDE.....120TH CLAIMANT/RESPONDENT

RULING

1. In contempt of court proceedings we have the Contempt of Court Act 2016. The Act is still metamorphing as Rules pursuant to the provisions of the Act are yet to be promulgated. However, recourse is had to the Rules in England in such matters. Under part 81.1.5 of the said Rules a plea for leave can be made orally. Here it is made formally and the Respondents have pointed out the aspects of the 120th Claimant's conduct deemed offensive.
2. The statement and the affidavit in support set out in some details the matters that prompted the leave being sought. The Respondents have an interest right like any party before the court to seek to uphold the dignity of the court. It is *prima facie* apparent there may be cause for concern that the dignity of the court is threatened by some conduct in the form of words in a broadcast.
3. While at the *ex-parte* stage the court is not required to dig deeply into the facts, it seems the 120th Claimant presented his views in a radio station during the pendency of the cause and made remarks prompting the instant application. He has responded by an affidavit which the court will refrain from relying on as he has not been formally enjoined on the contempt proceedings.
4. In the motion, the Respondents have met the threshold for grant of the leave sought. The authorities of **Republic v Tony Gachoka** & the one of **Republic v PS Ministry of Defence** are instructive. I therefore grant leave to the Respondent to commence contempt of court proceedings by filing a motion to that effect within 21 days of today. The alleged contemnor be served with the motion upon filing and he will have 14 days to file his response to the motion.
5. Pending the hearing of the motion the court issues *ex debito justitiae* an order barring the alleged contemnor or his agents from discussing the matter in any radio station during the pendency of the motion.

Dated and delivered at Meru this 11th day of May 2018

Nzioki wa Makau

JUDGE