



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 998 OF 2018

DR EDWIN GICHANGI

CLAIMANT

v

KENYA CULTURAL CENTRE

RESPONDENT

**RULING**

1. This ruling is in respect of an application dated 20 July 2018 by Dr Edwin Gichangi (Claimant) presented under Article 159(2)(d) of the Constitution and sections 3, 4, 5, 24, 28 and 30(2) & (5) of the Contempt of Court Act, No. 46 of 2016 and all other enabling provisions of law.
2. The Respondent responded to the application on 27 September 2018, and the Court took arguments on 8 October 2018 and reserved ruling to today.
3. On 9 November 2018, the High Court in *Kenya Human Rights Commission v Attorney General & another* (2018) eKLR, declared that sections 30 and 35 of the Contempt of Court Act were inconsistent with the Constitution, and further that the entire Contempt of Court Act was invalid for lack of public participation before enactment into law.
4. Considering that holding on unconstitutionality and invalidity, and the principle that it is not open to another Court at the same level/hierarchy to *undeclare* a declaration of invalidity/inconsistency with the Constitution, even if it would have come to a contrary opinion, and further considering that the application the subject of this ruling was anchored on the Contempt of Court Act as the substantive legislation in Kenya, this Court has come to the conclusion that the application herein must be terminated.
5. No order as to costs.

**Delivered, dated and signed in Nairobi on this 7<sup>th</sup> day of December 2018.**

**Radido Stephen**

**Judge**

**Appearances**

For applicant      Majimbo A.G. & Co. Advocates

For Respondent    Rachier & Amollo Advocates

Court Assistant    Lindsey