



**Maina v County Government of Nairobi & 2 others; Trattoria Limited (Interested Party) (Petition 132 & 129 of 2014 (Consolidated)) [2025] KEHC 1066 (KLR) (Constitutional and Human Rights) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1066 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CONSTITUTIONAL AND HUMAN RIGHTS  
PETITION 132 & 129 OF 2014 (CONSOLIDATED)  
LN MUGAMBI, J  
FEBRUARY 27, 2025**

**BETWEEN**

**JOANINAH WANJIKU MAINA ..... PETITIONER**

**AND**

**COUNTY GOVERNMENT OF NAIROBI ..... 1<sup>ST</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTIONS ..... 2<sup>ND</sup> RESPONDENT**

**INSPECTOR GENERAL OF POLICE ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**TRATTORIA LIMITED ..... INTERESTED PARTY**

**RULING**

**Introduction**

1. By a Notice of Motion application dated 31<sup>st</sup> January 2023, the petitioner seeks orders that:
  - i. Spent.
  - ii. Leave be granted to the petitioner to commence contempt of court proceedings against the 1<sup>st</sup> respondent and the interested party.
  - iii. Gaetano Ruffo, the Director of the interested party, be summoned to show cause why he should not be cited for contempt of the Orders of this Court.



- iv. The County Executive Committee Member in charge of Health, Wellness and Nutrition of the 1<sup>st</sup> respondent, be summoned to show cause why he/ she should not be cited for contempt of the Orders of this Court.
- v. The County Attorney of the 1<sup>st</sup> respondent, be summoned to show cause why he/ she should not be cited for contempt of the Orders of this Court.
- vi. The Chief Officer in charge of Health, Wellness and Nutrition of the 1<sup>st</sup> respondent, be summoned to show cause why he/she should not be cited for contempt of Orders of this Court.
- vii. The costs of the Application be awarded to the petitioner.

### **Petitioner's case**

2. The application is supported by the petitioner's affidavit of even date and the grounds on the face of the application. The application is in addition supported by a further affidavit sworn on 19<sup>th</sup> July 2023.
3. The petitioner states that this Court in its Judgment dated 21<sup>st</sup> July 2017 granted the following orders:
  - i. An order of mandamus compelling the County Government of Nairobi to produce to the Court and serve the Petitioner with copies of all the documents relating to the application for approval and the approval for the installation of commercial L.P.G. gas cylinder, cold room storage, water tanks and smoke extractor including all building plans, approvals and minutes of meetings relating to the approval process for the fire exit and fire assembly points for Town House located at L.R. No. 209/2362, Nairobi, within 30 days from the date of this judgement.
  - ii. An order of certiorari quashing the approvals granted by the County Government of Nairobi for installation of water tanks, smoke extractor, L.P.G Gas cylinder and cold storage installed at the fire exit and fire assembly point at Town House, Nairobi on L.R. No. 209/2362, Nairobi.
4. The petitioner asserts that the 1<sup>st</sup> respondent and interested parties have failed to comply with the cited orders hence in contempt. Also, that due to their failure to comply, there continues to be an ever present and continuing danger to public health and safety.
5. In addition, it is stated that the 1<sup>st</sup> respondent and interested party have neglected to remove the items that are blocking the fire exit and fire assembly points at L.R. No.209/2362 which is a threat to public health and the lives of the persons within that vicinity.
6. She avers that the 1<sup>st</sup> respondent and the interested party were aware of this Court's orders as were served and further fully participated in their appeal against these orders at the Court of Appeal and Supreme Court. Their appeal in both superior courts was unsuccessful.
7. The petitioner avers that the interested party's director, Gaetano Ruffo and the 1<sup>st</sup> respondent's, County Executive Committee Member; Chief Officer in charge of health, wellness and nutrition and County Attorney (who oversee the 1<sup>st</sup> respondent's affairs and conduct on public health), are the persons responsible for the continuing disobedience of this Court's Orders.
8. The petitioner depones in her further affidavit that the 1<sup>st</sup> respondent instituted criminal proceedings (Criminal Case No.463A of 2022) against her so as to frustrate her into stopping execution of the subject Judgment herein.



### **1<sup>st</sup> Respondent's Case**

9. The 1<sup>st</sup> respondent through, the acting County Solicitor, Wasonga Ogola filed a replying affidavit sworn on 17<sup>th</sup> March 2023 in reaction to the instant application.
10. He acknowledges the orders of this Court issued in the Judgment dated 21<sup>st</sup> July 2017 and the subsequent appeals to the Court of Appeal (Civil Appeal No.151 of 2018) and the Supreme Court (Petition No. E029 of 2022). The Supreme Court Ruling was delivered on 25<sup>th</sup> November 2022.
11. In light of this, he argues that the 1<sup>st</sup> respondent cannot be accused of defying the cited Court orders as in seeking to appeal this Court's decision was exercising its own constitutionally guaranteed right to appeal.
12. He avers that the petitioner does not to elucidate on why she seeks to have the County Executive Committee Member and Chief Officer in charge of health, wellness and nutrition cited for contempt of this Court's order. He further points out that this order was not specifically served on these officers. Besides, he stresses that the purview of these orders do not fall within their mandate.
13. He states that the 1<sup>st</sup> Respondent is a law-abiding body and as a result adduces in this affidavit the sought documents in compliance with the cited Court orders. These are: copies of the planning approvals, minutes of meetings relating to the approvals and buildings plans.
14. In closing, he asserts that this Court in the cited Ruling did not order the 1<sup>st</sup> Respondent to remove the items that the petitioner claims are blocking the fire exit and fire assembly points. Considering this, he asserts that the application lacks merit and hence should be dismissed.

### **Interested Party's Case**

15. In rejoinder, the interested party filed his replying affidavit sworn on 17<sup>th</sup> February 2023 wherein he avers that the application is incurably defective and lacks basis.
16. He depones that this Court did not issue any specific order against the interested party as alleged. He also points out that the interested party was not a substantive party in the proceedings. Consequently, he argues that the interested party is not in breach of the cited orders.
17. Likewise, he avers that the interested party was not directed to remove the items placed on the fire exits and fire assembly points on L.R.No.209/2362.
18. He informs that this Court has had an opportunity to inspect the premises on its site visit and found that the fire exits and fire assembly points were not blocked as seen in its Ruling dated 20<sup>th</sup> December 2013. Moreover, the petitioner's claim of blockage of these points had also been dismissed by the Hon. Retired Justice Ringera in an Arbitral award issued on 13<sup>th</sup> January 2013. He depones in addition that the interested party has the necessary fire clearance certificates.
19. He furthermore avers that the petitioner has placed a water tank in the same premise however refuses to supply the interested party with water and even went as far as hiring goons to destroy the interested party's property. The petitioner is said to have also launched a media campaign to tarnish his name and business.
20. In view of the foregoing, he reasons that the instant application and petitioner's actions have always been geared towards terminating the lease between her and the interested party. Considering this, he argues that the application lacks merit.



## Parties' Submissions

### Petitioner's Submissions

21. The applicant through Kilonzo and Company Advocates filed submissions dated 22<sup>nd</sup> May 2023 in support of her application. Counsel identified the issues for determination as: whether the terms of the Order were clear, unambiguous and binding; whether the 1<sup>st</sup> respondent and the interested party had knowledge and/ or proper Notice of the Court Orders and whether the 1<sup>st</sup> respondent and the interested party have intentionally, willfully, maliciously, and deliberately failed to comply with the Order.
22. On the first issue, Counsel submitted that the cited Court orders were clear, unambiguous and binding on the 1<sup>st</sup> respondent and the interested party. Reliance was placed in *Katsuri Limited v Kapurchand Depor Shah* [2016] eKLR where the Court noted that:

“in order for an applicant to succeed in civil contempt proceedings, the applicant has to prove (i) the terms of the order, knowledge of the terms by the respondent, failure by the respondent to comply with the terms of the order.”
23. It was stated on the second issue that these parties were aware of the Court's orders since they were served and further participated in their own appeal at the Court of Appeal and Supreme Court. Reliance was placed in *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.”
24. Like dependence was placed in *Republic v Attorney General & another Exparte Mike Maina Kamau* [2020] KEHC 10013 (KLR).
25. On the final issue, Counsel submitted that at the time of filing this application it had been 6 years since this Court's Judgment. It was argued that these parties upon issuance of the orders, failed to comply and sought to appeal the matter. In essence, Counsel asserted that it had been 6 years of continued and deliberate disobedience of these Court orders.
26. To buttress this point reliance was placed in *Sheila Cassat Issenberg* (supra) where the Court held that:

“the emphasis as shown in the above cases is that there must be "willful and deliberate disobedience of court orders." There cannot be deliberate and willful disobedience unless the contemnor had knowledge of the existence of that order. And because contempt is of a criminal nature, it is always important that breach of the order be proved to the required standard; first, that the contemnor was aware of the order having been served or having personal knowledge of it, and second; that he deliberately and willfully disobeyed it.”
27. Comparable dependence was placed in *Econet Wireless Kenya Ltd v Minister for Information & Communication of Kenya & another* [2005] KLR 828, *Indian Airports Employees Union v Ranjan Catterjee & Another* [AIR 1999 SC 880: 1999(2) SCC:537 and *Mahinderjit Singh Bitta v Union of India & Others* 1 A NO. 10 of 2010.



## 1<sup>st</sup> Respondent's submissions

28. On 11<sup>th</sup> July 2023, the 1<sup>st</sup> respondent through Prof. Albert Mumma & Company Advocates filed submissions where the underlined issue for determination was: whether the 1<sup>st</sup> respondent willfully and deliberately disobeyed the Court Orders issued on 21<sup>st</sup> July 2017 hence liable for contempt of court orders.
29. Counsel in this issue answered in the negative. Counsel stressed that for a party to be cited as discussed in the Sheila Cassatt Issenberg case, he must have disobeyed an order that was directed at him. Counsel equally stated that since these proceedings are criminal in nature, the proof in such cases is higher than that in civil proceedings.
30. Reliance was placed in *Gatharia K. Mutikika v Baharini Farm Limited (1985) 1 KLR 227* where it was held that:

“A contempt of court is an offence of a criminal character. A man may be sent to prison. It must be proved satisfactorily .... It must be higher than proof on a balance of probabilities, almost but not exactly, beyond reasonable doubt. The standard of proof beyond reasonable doubt ought to be left where it belongs, to wit criminal cases. It is not safe to extend it to offences which can be said to be quasi-criminal in nature.

“However, the guilt has to be proved with such strictness of proof as is consistent with the gravity of the charge.”

31. Equal dependence was placed in *North Tetu Farmers Co. Ltd v Joseph Nderitu Waniohi (2016) eKLR and Carey v Laiken, 2015 SCC 17 (16th April 2015)*.
32. According to Counsel, this application does not meet the threshold for grant of the sought orders. Counsel submitted that the petitioner had cited the 1<sup>st</sup> respondent's officers for contempt yet the court orders were not directed at them. It was further noted that these parties were not aware nor served with the said orders and further the gist of the orders do not fall within their mandate.
33. Counsel argued also that there was no willful disobedience on the 1<sup>st</sup> respondent part as was only pursuing its right to appeal the decision rendered. It was further noted that he 1<sup>st</sup> Respondent in its replying affidavit had in compliance adduced to this Court and by extension the petitioner the documents that were sought.
34. Counsel implored that if at all this Court finds that, there was contempt, for this Court to humbly find that the same had been purged by issuance of these documents. Reliance was placed in *Directline Assurance Co. LTD v Jamii Bora Bank LTD & 5 others (2015) eKLR* where it was held that:

“To my mind contempt proceedings are quasi - criminal in nature, and is a tool employed by a civil court to ensure obedience to the civil court's orders and directions. A, civil court has no interest in punishing a litigant, unless a litigant leaves the court with no option but to resort to quasicriminal proceedings to punish a litigant. When a court orders are being disobeyed, or are about to be disobeyed, and the contemnor comes down and purges the contempt, either out of his own freewill or at the prompt of the court, the court will accept the purge of the contempt unless circumstances exist to suggest that the coming down, or the alleged purging of the contempt, is not genuine, or is done in bad faith, or is in itself a continuation of the original contempt. In accepting the coming down of the contemnor,



the court will assess the reasons given for the disobedience, the time taken to come down, and the cost incurred in the process".

### **Interested Party's submissions**

35. Mohammed Muigai LLP for the interested party filed submissions dated 20<sup>th</sup> July 2023 and outlined the issue for determination as: whether the interested party violated any of the orders issued on 21<sup>st</sup> July 2017 and therefore is in contempt of the said orders.
36. Counsel relying in Cecil Miller v. Jackson Njeru and Another (2017) eKLR submitted that for such an application to be successful, a party must establish: the terms of the order/ or injunction or undertaking, were clear and unambiguous and were binding on the defendants; the defendant has knowledge of or proper notice of the terms of the order; the defendant has acted in breach of terms of the order and the defendant's conduct was deliberate.
37. Like dependence, Trusted Society of Human Rights Alliance v Cabinet Secretary for Devolution and Planning & 3 others [2017] eKLR.
38. Counsel relying on the interested party's averments submitted that the cited orders, did not direct the interested party to do anything or refrain from doing anything. Considering this, Counsel submitted that the allegation was unfounded and also that the petitioner had not proved how the interested party had defied these orders. Reliance was placed in the Sheila Cassatt Issenberg case where it was stated that:

"For a party to be cited for contempt, he must have violated and or disobeyed an order that was directed at him."
39. In this way, Counsel submitted that the interested party cannot therefore be adjudged to be guilty of willful disobedience. Reliance was placed in Indian Airports Employees Union v Ranjan Catterjee & Another [AIR 1999 SC 880: 1999(2) SCC:537 where it was held that:

"In order to amount to "civil contempt" disobedience must be willful. If, disobedience is based on the interpretation of court's order, notification and other relevant documents, it does not amount to willful disobedience."
40. Like dependence was placed in Mahinderjit Singh Bitta v Union of India & Others 1 A NO. 10 of 2010 (13<sup>th</sup> October 2011) and Sheila Cassatt Issenberg (supra).

### **Analysis and Determination**

41. It is my considered view that the issue that arises for determination is:

Whether the 1<sup>st</sup> respondent and interested party are in contempt of the Court Orders issued in the Judgment dated 21<sup>st</sup> July 2017.
42. The law governing contempt of Court proceedings was elucidated by the Court in Trusted Society of Human Rights Alliance v Cabinet Secretary for Devolution and Planning & 3 others [2017] eKLR as follows:

"... In Halsbury's Laws of England, it is stated: -

"It was the plain and unqualified obligation of every person against or in respect of whom an order was made by a court of competent jurisdiction to obey it unless and until it was discharged and disobedience of such an order would as a general



rule result in the person disobeying it being in contempt and punishable by committal or attachment ... an application to court by him not being entertained until he had purged his contempt”

In book *The Law of Contempt* learned authors Nigel Lowe & Brenda Suffrin state a follows:-

“Coercive orders made by the courts should be obeyed and undertakings formally given to the courts should be honoured unless and until they are set aside. Furthermore, it is generally no answer to an action for contempt that the order disobeyed or the undertaking broken should not have been made or accepted in the first place. The proper course if it is sought to challenge the order or undertaking is to apply to have it set aside....

.... Writing on proving the elements of civil contempt, learned authors of the book *Contempt in Modern New Zealand*[17] have authoritatively stated as follows:-

“There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that:-

- i. the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;
- ii. the defendant had knowledge of or proper notice of the terms of the order;
- iii. the defendant has acted in breach of the terms of the order; and
- iv. the defendant’s conduct was deliberate.”

43. Similarly, in *Republic v Kenya School of Law & 2 others Ex parte Juliet Wanjiru Njoroge & 5 others* (2015) eKLR citing with approval the case of *Econet Wireless Kenya Ltd vs. Minister for Information & Communication of Kenya & Another* [2005] 1 KLR 828 held thus:

“23... In *Econet Wireless Kenya Ltd vs. Minister for Information & Communication of Kenya & Another* [2005] 1 KLR 828 Ibrahim, J (as he then was) stated:

“It is essential for the maintenance of the rule of law and order that the authority and the dignity of our Courts are upheld at all times. The Court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a Court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation



is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void”.

44. On the standard of proof, the same was explained in Sheila Cassatt Issenberg (*supra*) as follows:

“ 51. Contempt of Court is in the nature of criminal proceedings and, therefore, proof of a case against a contemnor is higher than that of balance of probability. This is because liberty of the subject is usually at stake and the applicant must prove willful and deliberate disobedience of the court order, if he were to succeed. This was aptly stated in *Gatharia K. Mutikika v Baharini Farm Limited* [1985] KLR 227, that:

A contempt of court is an offence of a criminal character. A man may be sent to prison. It must be proved satisfactorily.... It must be higher than proof on a balance of probabilities, almost but not exactly, beyond reasonable doubt. The standard of proof beyond reasonable doubt ought to be left where it belongs, to wit criminal cases. It is not safe to extend it to offences which can be said to be quasi-criminal in nature.

However, the guilt has to be proved with such strictness of proof as is consistent with the gravity of the charge... Recourse ought not to be had to process of contempt of court in aid of a civil remedy where there is any other method of doing justice. The jurisdiction of committing for contempt being practically arbitrary and unlimited, should be most jealously and carefully watched and exercised with the greatest reluctance and the greatest anxiety on the part of the judge to see whether there is no other mode which is not open to the objection of arbitrariness and which can be brought to bear upon the subject... applying the test that the standard of proof should be consistent with the gravity of the alleged contempt... it is competent for the court where contempt is alleged to or has been committed, and or an application to commit, to take the lenient course of granting an injunction instead of making an order for committal or sequestration, whether the offender is a party to the proceedings or not.

52. 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.”

45. The gist of this application is that 1<sup>st</sup> respondent and interested party are in contempt of this Court’s orders. The petitioner must thus prove the elements already alluded to for the application to be successful.

46. The Court in the Judgment dated 21<sup>st</sup> July 2017, made the following finding before passing the orders now subject of this contempt application:

“ 74. Upon due consideration of the law on granting prerogative orders and upon considering the facts of this case and in particular the law relating to granting of development approvals, I am satisfied that that the petitioner has raised pertinent issues which go to the core of the manner in which the approvals in question were granted and in absence of cogent explanation by the County Government of Nairobi and in particular the omission to avail the relevant



documents, I find that the petitioner has demonstrated a case for granting of the judicial review orders sought.

75. In view of my analysis of the facts and the law enumerated above, I find that the consolidated petitions have merits. Consequently, I allow the two petitions and orders as follows:-

- a. An order of prohibition be and is hereby issued permanently prohibiting the Director of Public Prosecutions and or the Inspector General of Police from summoning, interrogating, arresting, investigating, instituting or continuing with any criminal prosecution against the petitioner or her agents in connection with or relating to Complaints lodged by Trattoria Limited or its Director or Agent or managing Director, a one Gaetano Ruffo touching on or Relating to any offences allegedly arising from or connected with the alleged malicious damage to the interested party's property at Land Reference Number 209/2362, Town House, Nairobi.
- b. A Declaration be and is hereby issued declaring that the County Government of Nairobi has violated the petitioners' rights under article 35 of *the constitution*.
- c. An order of Mandamus be and is hereby issued compelling the County Government of Nairobi to produce to the court and serve the petitioner with copies of all the documents relating to the application for approval and the approval for the installation of commercial L.P.G. gas cylinder, cold room storage, water tanks and smoke extractor including all building plans, approvals and minutes of meetings relating to the approval process for the fire exit and fire assembly points for Town House located at L.R. No. 209/2362, Nairobi, within 30 days from the date of this judgement.
- d. An Order of certiorari be and is hereby issued to bring to this court to be quashed the approvals granted by the County Government of Nairobi for installation of water tanks, smoke extractor, L.P.G Gas cylinder and cold storage installed at the fire exit and fire assembly point at Town House, Nairobi on L.R. No. 209/2362, Nairobi.
- e. That the Respondents do pay the costs of this petition to the petitioner."

47. The contempt application is grounded on prayers (c) and (d). According to the petitioner, the 1<sup>st</sup> respondent and the interested party have continued to defy these two orders. In particular, the petitioner contends that the cited parties have neglected to remove the items that are blocking the fire exit and fire assembly points at L.R. No.209/2362. Similarly, the petitioner averred that the persons who are supposed to be cited for contempt are: the interested party's director, Gaetano Ruffo and the 1<sup>st</sup> respondent's, County Executive Committee Member; Chief Officer in charge of health, wellness and nutrition and County Attorney.



48. The 1<sup>st</sup> respondent opposed the application by explaining that the alleged lack of compliance was during the period it was exercising its right of appeal hence the same was not willful. The 1<sup>st</sup> respondent further questioned the petitioner's citing of its officers it said were unaware of the orders and were not directly served as required. Further, that the issues raised in the Petition do not fall within their mandate.
49. That notwithstanding, the 1<sup>st</sup> respondent proceeded to in fact provide the documents sought under order (c) in its replying affidavit.
50. The interested party on its part faulted the application on two principal reasons. one, that none of the two orders had been directed against the interested party and two, the Court did not order the removal of the items blocking the fire exits and fire assemblies as alleged by the Petitioner/Applicant.
51. Clearly, the order that the Petitioner claims was not complied with was in two limbs: the first, is the production to the court and service to the petitioner, information relating to the application for approval and the approval for the installation of commercial L.P.G. gas cylinder, cold room storage, water tanks and smoke extractor including all building plans, approvals and minutes of meetings relating to the approval process for the fire exit and fire assembly points for Town House located at L.R. No. 209/2362. The second limb, is: quashing of the approvals granted by the County Government of Nairobi in relation to this aspect.
52. It is abundantly clear the two orders were addressed to the 1<sup>st</sup> respondent. The Court did not direct these orders to the interested party as alleged and thus 1<sup>st</sup> interested party cannot be held in contempt for an order that did not direct any action on its part.
53. Having directed the orders to the 1<sup>st</sup> respondent, the question thus becomes whether the 1<sup>st</sup> Respondent complied with the said orders or not, if not, who should be held in contempt of the court orders that directed to the 1<sup>st</sup> Respondent.
54. The parties in their pleadings and submissions stated that they were all fully aware of the terms of the order and none indicated that those orders were equivocal.
55. The subject Judgment was delivered on 21<sup>st</sup> July 2017. Thereafter as has been deponed, the matter was appealed to the Court of Appeal and eventually at the Supreme Court. The Supreme Court's Ruling was rendered on 25<sup>th</sup> November 2022.
56. The instant application was filed 31<sup>st</sup> January 2023. The petitioner in her argument stressed that the 1<sup>st</sup> respondent had failed to comply with the orders which had been issued 6 years ago by then. The 1<sup>st</sup> respondent countered that it was pursuing its right of appeal but has supplied the said documents that the Petitioner had been seeking.
57. In its affidavit, the 1<sup>st</sup> respondent attached the following documents: Certificate of occupation of LR No.209/2362; the Local Government (Adoptive by-laws) (Building) Order 4968 L.N. 15/1969 City of Nairobi (Building)By-Law 1948 G.N.313/1949; minutes for the Town planning Committee meeting dated 19<sup>th</sup> June 2008; and the floor plans of the building.
58. Having regard to the foregoing, can it be said that willful disobedience by the 1<sup>st</sup> respondent been established by the petitioner?
59. I think not. The right of appeal against a decision is provided for in law when a party is dissatisfied with the decision of the Court and it is not within the control of the appellant to determine how long the appellate process would take. Further, soon after the Supreme Court's Ruling, the 1<sup>st</sup> respondent



went ahead and supplied the required documents through the Court to the petitioner. It thus my finding willful disobedience has not been proved and thus the instant contempt of Court application cannot be sustained. There was also no order that specifically directed removal of the installations in the judgment of 21<sup>st</sup> July, 2017.

60. The application is hereby dismissed. Each Party to bear its own costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 27<sup>TH</sup> DAY OF FEBRUARY, 2025.**

.....

**L N MUGAMBI**

**JUDGE**

