



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NYAHURURU**

**ELC NO. 6 OF 2020 (OS)**

**JAMES GACHIRI MWANGI.....PLAINTIFF/ APPLICANT**

**-VERSUS-**

**JOHN WAWERU MURIUKI.....1<sup>st</sup> DEFENDANT/RESPONDENT**

**SARAH WAITHERA WAWERU.....2<sup>nd</sup> DEFENDANT/RESPONDENT**

**SAMWEL WAWERU NDUNGU.....3<sup>rd</sup> DEFENDANT/RESPONDENT**

**MARTIN MACHARIA WAMBUI.....4<sup>th</sup>.DEFENDANT/RESPONDENT**

**RULING**

1. What is before the court for determination is therefore the original application dated the 25<sup>th</sup> February 2020 by way of Notice of Motion made under Order 50 Rule 1, Order 40 Rule 1 and 3 of the Civil Procedure Rules and Section 1A, 1B and 3A of the Civil Procedure Act where the Plaintiff/Applicant seeks injunctive orders against the Respondents.
2. On the 25<sup>th</sup> February 2020, there were ex-parte interim orders of status quo issued and the Applicant directed to serve their application upon the Respondent so that the matter could proceed for inter-parties hearing on the 28<sup>th</sup> April 2020.
3. While the matter was pending hearing, Counsel for the Plaintiff filed another application under certificate of urgency dated the 7<sup>th</sup> April 2020, wherein he sought for orders that the 3<sup>rd</sup> and 4<sup>th</sup> Defendants/Respondents be summoned to Court to show cause why they should not be committed to civil jail for blatantly failing to comply with the orders of status quo issued by the Court and in default they be committed to jail for a maximum of 6 months for contempt of the said Court order. The said application was heard and dismissed via the court's ruling of the 25<sup>th</sup> June 2020.
4. On the 5<sup>th</sup> October 2020 the matter came up for mention to confirm compliance of the orders issued on the 25<sup>th</sup> February 2020 regarding the Application dated the 25<sup>th</sup> February 2020 wherein only the Plaintiff/Applicant's Counsel was present. I note that although there had been Replying Affidavits filed by both the 3<sup>rd</sup> and 4<sup>th</sup> Respondents on the 17<sup>th</sup> April 2020 and 23<sup>rd</sup> April 2020 respectively, there had neither been a notice served upon the Respondents of the Mention date for the 5<sup>th</sup> October 2020 nor directions taken as to how the said Application dated the 25<sup>th</sup> February 2020 would be dispensed with.
5. In line with the provisions of Article 50 of the Constitution and Section 1A, 1B and 3A of the Civil Procedure Act, I do direct that this matter be placed before the Judge for further directions on its expeditious disposal.

**Dated and delivered at Nakuru this 13<sup>th</sup> day of January 2021**

M.C. OUNDO

**ENVIRONMENT & LAND – JUDGE**



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