



REPUBLIC OF KENYA



**KENYA LAW**  
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**Gami Properties Limited v Rangeela Collection Limited (Tribunal Case E1082 of 2025) [2025] KEBPRT 316 (KLR) (2 April 2025) (Ruling)**

Neutral citation: [2025] KEBPRT 316 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E1082 OF 2025  
N WAHOME, CHAIR & JOYCE MURIGI, MEMBER  
APRIL 2, 2025**

**BETWEEN**

**GAMI PROPERTIES LIMITED ..... APPLICANT**

**AND**

**RANGEELA COLLECTION LIMITED ..... RESPONDENT**

**RULING**

1. This Ruling is on the Landlady's notice of preliminary objection dated the 7<sup>th</sup> April 2025. It is said to be in opposition to the Tenant's application dated the 14/3/2025. We however believe that the landlord meant the Tenant's Application dated 7/3/2025. The grounds upon which the notice of preliminary objection are anchored are that:-
  - i. Pursuant to Section 12(2) of Cap. 301 as read with the decision by the court of Appeal in *Gatharia K. Mutitika v Baharini Farm Ltd* (1985) eKLR 229 that this Honourable Tribunal lacks jurisdiction to entertain the Application dated 7/3/2025.
  - ii. That the application is an abuse of the Tribunal's process and ought to be dismissed with costs against the Respondent/Landlord.
2. The application alluded to and dated the 7/3/2025 is seeking for the following reliefs:-
  - a. Spent
  - b. That this Honourable court do find the director of the Landlord, Bharat Ramji to have committed contempt of court by disobeying the orders issued on the 24/2/2025 by this Honourable Tribunal to not rent out to any third party or to take into the use of the landlord the premises property known as LR No. 1870/111/208, Brookside Grove, Westlands Nairobi pending the hearing and determination of this matter.



- c. That this Honourable tribunal do admonish and punish the Director of the landlord Bharat Ramji for having committed contempt of court by disobeying the orders issued on 24/2/2025 by this Honourable Tribunal to not rent out to any 3<sup>rd</sup> party or take into the use of the landlord the premises property known as LR No.1870/111/208 Brookside grove, Westlands Nairobi pending the hearing and determination of this matter.
  - d. Costs of this application be borne by the landlord.
3. The contempt proceedings as manifested by the Application dated 7/3/2025 were triggered by the alleged disobedience of the orders of this court issued on the 24/2/2024. The effect of the said orders was that:-
  - i. “The demised premises which lawfully vest in the Tenant shall not be rented out to any 3<sup>rd</sup> party or taken into the use of the landlord pending the hearing and determination of this matter”.
  - ii. That the Tenant is at liberty and has the leave of this court to initiate contempt proceedings against the director of the landlord Mr. Bharat Ramji and the OCS Spring Valley Police Station Mr. Peter Tinega.
  - iii. That such application be filed and served within five (5) days of the date hereof.
  - iv. Mention on the 5/3/2025 for further directions, and
  - v. The interim orders already on record are extended.
4. To put the matters herein in context, it is important to give a background of the facts underlying the now consolidated suits originally Nos 1082/2024 and 1125/2024. In case No. 1082 the following issues require to be highlighted:-
  - i. The matter was attended to for the first time on the 3/10/2024 vide the application and orders concerning the Tenants status were issued.
  - ii. The matter next came to court on the 17/10/2024 and where the landlord was represented by a Mr. Nanyuki.
  - iii. On the 13/11/2024 the orders sought for in the application dated 2/10/20224 were confirmed as the Application was not opposed and this court found merit in the same.
  - iv. When the matter appeared in court on the 17/2/2025, it was reported by Mr. Mungai the counsel for the Tenant that the Landlord had filed BPRT Case No. 1125/2024 and wherein he had obtained eviction orders against the Tenant
  - v. On the same date of 17/2/2025 this court directed the OCS Spring Valley Police Station to ensure that the stay orders issued on the 13/2/2025 in BPRT Case No. 1125/2025 were complied with.
  - vi. On the 24/2/2025, the court in the absence of the Landlord who had been duly served ordered that the demised premises not be rented to 3<sup>rd</sup> parties nor taken to the use of the Landlord.
  - vii. The Tenant was also granted leave to initiate contempt proceedings against the landlord’s Director Mr. Bharat Ramji and the OCS Spring Valley Police Station Mr. Peter Tinega.
  - viii. On the 5/3/2025 Mr. Orengo came in on record for the 1<sup>st</sup> time appearing for the landlord in BPRT Case No. 1125 of 2024 whereas M/S Omamo also came in for the Nine (9) subtenants/ interested parties.



- ix. It was then agreed to have the 9 sub tenants enjoined in these proceedings as interested parties and for the parties to consider the possible consolidation of BPRT case No. E1082/2024 and E1125/2024.
  - x. On the 17/3/2025, the landlord and counsel did not appear in court but Mr. Mungai and M/S Omamo were present and the court directed that the application for contempt of court dated 7/3/2025 be disposed off by way of oral submissions and summons were directed to issue against the landlord's Director Mr. Bharat Ramji and the OCS Spring Valley Police Station Mr. Peter Tinega to appear during the said hearing on the 1/4/2025.
  - xi. When this matter came up for hearing on the 1/4/2025, Mr. Orengo for the landlord sought for an adjournment as the director thereof Mr. Bharat Ramji had been taken ill. This court directed that the said director and the OCS Spring Valley Police Station would appear in court on the 8/4/2025 when they would be cross-examined on non-compliance with the court orders.
  - xii. On the 8/4/2025 the matter again came up and present in court were Mr. Mungai, Mr. Orengo, M/S Omamo and the OCS Spring Valley Police station Mr. Peter Tinega. The court gave directions on the hearing of the Landlord's notice of preliminary objection dated 7/4/2025 appropriately and sought for a date for Ruling.
5. In relation to BPRT case No. E1125 of 2024 we would wish to highlight the following salient issues:-
- i. The same was filed on the 17/10/2025 on the same date that the parties were in court in BPRT case No. 1082/2024.
  - ii. On the 7/11/2024, the landlord's Director Mr. Bharat Ramji who was then acting in person obtained orders to have the Tenant deliver vacant possession of the demised premises or be evicted.
  - iii. That on the 13/2/2025, orders were issued by this court stopping and/or staying the eviction orders issued on the 7/11/2025. The said orders were to be enforced by the OCS Spring Valley Police Station.
  - iv. That by the Applications dated 17/2/2025 and 26/2/2025, be vacated and also the Landlord pleaded want of jurisdiction by this court, prayed that the orders made on the 13/2/2025, 17/2/2025 and 24/2/2025 amazingly that the Landlord's application dated 13/11/2024 and the orders of the even date be struck out.
6. Having highlighted both files, we are now able to address the questions raised by the landlord in the notice of preliminary objection dated 7/4/2025. Only that we need to observe, and sadly so that file No. BPRT 1125/2024 in our view was filed to defeat the orders of this court that had been issued on the 3/10/2025.
7. Though the landlord was represented in BPRT E1082/2025, he filed BPRT E1125/2024 in person well aware of the existence of BPRT E1082/2024 and the ensuing orders thereof. As a slap and an abuse of court processes, when BPRT E1082/2024 was being canvassed in court on the 17/10/2024, the landlord was filing BPRT E1125/2024. That does not sit well with the administration of justice. In our view, the landlord could not have served the Tenants with the pleadings in 1125/2024 as it is very clear from the record that its plain intention was to defeat the orders of 3/10/2024 and therefore the cause of justice. It is most regrettable that our court's registry and our court ICT infrastructure could not detect such brazen abuse of its processes when BPRT E1125/2024 was being filed and raise a Red Flag.



8. Going back to the matters at hand, the question that we need to answer is whether this court has the wherewithal to superintend over contempt proceedings against its own orders. To answer this, we first need to define what a court is and whether this Tribunal is such a court. Article 169 of the Constitution provides that:-
- i. 169(1) The subordinate courts are:-
  - ii. “The Magistrate court
  - iii. The Kadhi’s courts
  - iv. The courts martial, and
  - v. Any courts or local tribunal as may be established by an Act of Parliament, other than the courts established as required by Article 162(2).
9. Article 159 of the Constitution emphasizes the values and principles that a court should uphold in exercise of its judicial authority it provides that:-
- 159(10) “Judicial authority is derived from the people and vests in and shall be exercised by, the courts and Tribunals established by or under this constitution”.
10. The Magistrate’s Court Act No. 26 of 2015 at Section 10 thereof provides that:-
- “Section 10(1) :Subject to the provisions of any other law, the court shall have power to punish for contempt”, and
- “Section 10(3) in the case of civil proceedings, the willful disobedience of any judgement, decree, direction, order or other process of a court or willful breach of an undertaking given to a court constitutes contempt of court”.
11. Further Section 63 of the Civil Procedure Act provides that:-
- “In order to prevent the ends of justice from being defeated, the court may, if it is so prescribed-
- a. Issue a warrant to arrest the defendant and bring him before the court to show cause why he should not give security for his appearance, and if he fails to comply with any order for security commit him to prison”.
  - b. ....
  - c. “Grant a temporary injunction and in case of disobedience commit the person guilty thereof to prison and order that his property be attached and sold”.
  - d. ....and
  - e. “Make such other interlocutory orders as may appear to the court to be just and convenient”.



12. This court further appreciates the input of the Judicature Act Cap 8 of the Laws of Kenya and in particular Section 5 thereof which provides that:-

5(1)“The High Court and the court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England, and such power shall extend to upholding the authority and dignity of subordinate courts”.

13. Finally, on the legal underpinnings partaking the question of contempt of court, we refer to Order 40 Rule 3 of the Civil Procedure Rules which provides that:-

i. “In case of disobedience, or of breach of any such terms, the court granting an injunction may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in prison for a term not exceeding six months unless in the meantime the court directs his release”.

ii. “No attachment under this Rule shall remain in force for more than one year, at the end of which time , if the disobedience or breach continues, the property attached may be sold, and out of the proceeds the court may award such compensation as it thinks fit, and shall pay the balance, if any to the party entitled thereto” and

iii. An application under this Rule shall be made by notice of motion in the same suit”.

14. As we interrogate the question before us, we confirm that we have perused the parties pleadings and evidence on record, the submissions filed and the case Law cited. We have also perused the case of Re ZJA and TA (minors) (2020) eKLR, Civil Appeal No. 112 of 2016 where the court held that,

“Therefore, in my view the notification of the contempt Act by the High Court on the 9/11/2018 has no effect on the magistrate’s court. In punishing contemnors for acts of disobedience committed against its orders under Section 10(3) of the *Magistrates Act*”.

15. The court further went on to pronounce itself as follows:-

“Indeed, in the Ramadhan case above quoted, the issue revolved around disobedience of court orders issued before the magistrates court Act of 2015 came to force by which time magistrates had no powers to handle contempt proceedings hence the pronouncement by the Court of Appeal. The same court actually affirmed the position that with the new magistrates Act, magistrates have powers under Section 10 of that Act to hear and punish for contempt arising out of their decisions. The court went further to state:-

“From he above, it does appear that the magistrate did not have jurisdiction to entertain the contempt proceedings as he correctly held. That jurisdiction belonged to the High Court and Court of Appeal. It is instructive that when the High Court and this court exercise that jurisdiction, it extends to the contempt committed in the subordinate court. The only jurisdiction that the magistrates court could exercise when dealing with contempt of court is, if it is committed in the face of the court. However, the magistrates court Act, 2015 which came into force on the 2/1/2016 now gives the magistrates courts unlimited jurisdiction to punish for contempt.....”.



16. The court further at paragraph 31 held that:-

“Having held as above, this court cannot proceed to determine the merits on the contempt proceedings for doing so will usurp the authority of the magistrates court and further prejudice its determination should a similar application be filed in the same court, it will also curtail the parties right of appeal. Accordingly, and for the above reasons stated, the application dated 5/6/2018 is hereby dismissed with costs being in the cause”.

17. In addressing the question at hand, we also find reliance the case of [\*Joseph Koome M'mukira and others v Charles Magiri and another\*](#) (E&LA E018 of 2024) KEELC 5736 (KLR) (31/7/2024) where the court held that:-

Section 5 of the *Judicature Act* as read together with Section 29 of the *Environment and Land Court Act* are the guiding laws on contempt of Court after the *Contempt of court Act* was declared unconstitutional. The procedural law remains in order 40 Rule 3(1) of the *Civil Procedure Rules* in case of contempt of court”.

18. The same court at paragraph 11 and while quoting the case of [\*BOG Moi High School Kabarak v Malcom Bell & Another\*](#) Scoll Pet No. 6 and 7 of 2013 held that,-

“The power to punish for contempt is a power of court to safeguard itself against contemptuous or disruptive intrusion from elsewhere. It is one of the indisputable authorities of courts inherent powers without which the protection of citizen’s rights and freedoms would be virtually impossible and may reduce courts of law to futile institution spewing forth the orders in vain”.

19. It is our view from various dispositions by different courts that punishment for contempt of court is a residual power that accrues to the court whose orders have been disobeyed. Indeed, most of the case law allude to the court’s power to punish for contempt. Under Article 159 and 169 of the [\*Constitution\*](#) this Tribunal is recognized as such court.

20. We are therefore of the considered opinion that this court is vested with the requisite authority to superintend over contempt proceedings and that the said jurisdiction as invoked by the Tenant’s Notice of Motion application dated 7/3/2025 is legitimate. In this we put reliance on the legal underpinnings cited herein above and on the following other decided cases:-

21. The case of Joseph Koome M’mukira *Supra*, in this case the court observed that it was unlikely that a court would undertake further proceedings where there was a question of contempt pending. We wonder whether an offended party before this tribunal would wait for contempt proceedings before the High Court and the court of Appeal to resume the Tribunal proceedings. That would obviously not serve the principles and values of our constitution. More so the requirement of effective and efficient dispensation of justice and also the need to demonstrate the doctrine that justice should not only be done, but also be seen to be done in the prisms of a pedestrian.

22. The court while quoting from the case of [\*Econet wireless ltd v Minister for Information and Communication of Kenya and Another\*](#) (2005) eKLR . It observed that:-

“Where an application for committal for contempt of court orders is made, the court will treat the same with a lot of seriousness and urgency and more often will suspend any other proceedings until the matter is dealt with and if contempt is proven to punish the contemnor



or demand it be purged or both, the reason being that a contemnor would have no right of audience in any court unless he is punished or purges the contempt”.

23. In the case of [Kenya Human rights Commission v The Honourable Attorney General and Law Society of Kenya](#) constitutional Petition No. 87 of 2017 (2018) eKLR, Justice Chacha Mwita emphasized on the Solemn authority of courts to administer justice and in particular to protect the rule of law and its dignity by not shying away from contempt proceedings. At Paragraph 64 thereof he held that:-

“Mr. Mwangi, learned counsel for the Petitioner, contended that the impugned Act is intrusive to the inherent power of the courts to punish for contempt, Mr. Ogeto on his part argued in favour of the Act contending that the power to punish for contempt is not inherent but is given by statute. I do not agree and learned counsel could not be more wrong in this. The court’s power to punish for contempt is inherent. It is the residual authority courts are endowed with that is not granted by statute and which courts use to ensure that ends of justice are met in the protection of society. The statute should only provide how the power is to be applied, it should make courts more effective but not limit their power. The fact that the courts have inherent power was appreciated by Msinga JA, when he observed in the case of *Equity Bank Ltd v Wesk Link Mbo Limited* (2013) eKLR that inherent power is the authority possessed by a court implicitly without it being derived from the constitution or statute which power enables the judiciary to deliver on the constitutional mandate. The court does not, therefore get the power to punish for contempt from a statute. The Act should only facilitate court exercise the power”.

24. Following from the above, it is apparent that this Tribunal has the residual and inherent power to conduct contempt proceedings. Indeed to shy away from that duty would be an abdication of its constitutional duty to administer justice to all and fairly so. The court in the same case of [Kenya Human Rights Commission Supra](#) emphasized this position at paragraph 65. It held that:-

“The fact that the power to punish for contempt is inherent and not granted by statute, follows the recognition by the *Constitution* in Article 159 that judicial Authority is derived from the people and vests in, and is exercised by the courts and Tribunals established by or under the *Constitution*. Judicial authority having been derived from the people, the judiciary services the public and courts make pronouncements for and on behalf of the people. In doing so, courts act only in accordance with the *Constitution* and the law as demanded by Article 160(1) of the *Constitution*. In that respect, therefore, the powers of the courts must be viewed from the supremacy clause in Article 2(1) of the *Constitution* so that any attempt to limit the power to punish for violates a foundational and constitutional value on judicial authority. Any legislation on contempt must be in addition to but not in derogation of the *constitution* for such limitation or derogation will surely be unconstitutional”.

25. Section 12(2) of the [Landlord and Tenant \(Shops, Hotels and Catering Establishments\) Act](#) was cited to us as another reason as to why this court could not oversee contempt proceedings. The section provides that:-

“A Tribunal shall not have or exercise any jurisdiction in any criminal matter, or entertain any criminal proceedings for any offence whether under this Act or otherwise”.

26. The contempt of court proceedings are Quasi- Criminal proceedings. There is indeed also a segment for criminal and Civil contempt proceedings. Section 4 of the repealed [Contempt of Court Act](#) Cap 87 Laws of Kenya defined contempt as follows:-



- i. Contempt of court includes-
    - a. Civil contempt which means willful disobedience of any judgement decree, direction, order or other processes of a court or willful breach of an undertaking given to a court.
    - b. Criminal contempt which means the publication, whether by words, spoken or written by signs, visible representation, or otherwise of any matter or the doing of any other Act which-
      - i. Scandalizes or tends to scandalize, or lowers or tends to lower the judicial authority or dignity of the court.
      - ii. Prejudices, or interferes with the due course of any judicial proceedings, or
      - iii. Interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice.
27. Further the *Blacks Law Dictionary* defines criminal case (matter) as:-  
“An action, suit, or cause instituted to punish an infraction of the criminal laws”.
28. The Dictionary further defines a criminal action as:-  
“the proceedings by which a party charged with a public offence is accused and brought to trial and punishment is known as a criminal action. An action prosecuted by the state as a criminal action. An action prosecuted by the state as a party, against a person charged with a public offence, for the punishment thereof”.
29. We highly doubt and disagree with the submissions that this court cannot punish for contempt in light of the provisions of Section 12(2) of *Cap. 301*. The legislature could not have envisaged that by that clause, this court could not punish those who defied its orders and other related directions. The legislator must have meant criminal proceedings as known in the Kenyan constitutional and statutory context and text.
30. In all, we are of the view and so determine that this court has the jurisdiction to resolve all the matters as raised in the Tenant’s Application dated 7/3/2025. The preliminary objection by the landlord is therefore dismissed as the same lacks any merit.
31. On the question of costs, we follow the conventional wisdom of Section 27 of the *Civil Procedure Act* and Section 12(1) (k) of *Cap 301* and award costs to the successful parties in these proceedings who are the Tenant and the interested parties.
32. In the final analysis, the orders that commend to us are the following:-
  - i. That the Landlord’s notice of preliminary objection dated 7/4/2024 is dismissed.
  - ii. That the Tenant’s Application dated 7/3/2025 shall be fixed for hearing on priority.
  - iii. That costs are awarded to the Tenant and the Interested Parties.Those are the orders of the court.

**RULING DATED, SIGNED & DELIVERED VIRTUALLY AT NAIROBI THIS 2<sup>ND</sup> DAY OF APRIL 2025.**

**HON. NDEGWA WAHOME, MBS HON. JOYCE MURIGI**



**PANEL CHAIRPERSON MEMBER**

**BUSINESS PREMISES RENT TRIBUNAL BPRT**

Ruling delivered in the presence of MR. Mungai for the Landlord and Mr. Orege for the Tenant/Applicant and in the absence of M/S Omamo the counsel for the Interested parties.

**HON. NDEGWA WAHOME, MBS HON. JOYCE MURIGI**

**PANEL CHAIRPERSON, MEMBER**

**BUSINESS PREMISES RENT TRIBUNAL BPRT**

