



**Republic v Nairobi City County Government & 5 others; KTK
Advocates (Exparte Applicant) (Judicial Review E086 of 2023)
[2024] KEHC 14697 (KLR) (Judicial Review) (30 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 14697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW E086 OF 2023
JM CHIGITI, J
SEPTEMBER 30, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

**NAIROBI CITY COUNTY GOVERNMENT 1ST RESPONDENT
CECM, FINANCE & ECONOMIC AFFAIRS 2ND RESPONDENT
CHIEF OFFICER, REVENUE ADMINISTRATION 3RD RESPONDENT
THE COUNTY SECRETARY, NAIROBI CITY COUNTY 4TH RESPONDENT
COUNTY ATTORNEY 5TH RESPONDENT
CHIEF OFFICER, FINANCE/COUNTY TREASURER NAIROBI CITY
COUNTY 6TH RESPONDENT**

AND

KTK ADVOCATES EXPARTE APPLICANT

RULING

1. The application before this court is the one dated July 10, 2023 wherein the applicant seeks the following orders;
 1.spent
 2. That, a Notice to Show Cause does issue to the Respondents:



- i. CECM, Finance & Economic Affairs.
 - ii. Chief Officer, Revenue Administration.
 - iii. County Secretary, Nairobi City County.
 - iv. County Attorney.
 - v. Chief Officer, Finance/County Treasurer Nairobi
3. City County to Show Cause why Contempt of Court Proceedings should not be commenced against them for disobedience of Orders of this Honourable Court given on 13.02.24.
 4. That, this Honourable Court does issue such orders as it may deem fit to grant in the interests of justice.
 5. That, the costs of this application be provided for.
2. It is the Applicant's case that an Order of *Mandamus* was issued on February 13, 2024. A Certificate of Order against the Government was extracted and served upon the Respondents on May 17, 2024. The decretal amount remains unpaid to date.
 3. Reliance is placed in the Court of Appeal in Nairobi Civil Appeal No. E290 of 2023, *Five Star Agencies Limited ~Vs~ National Land Commission & Another* [Unreported] set out the law over the road map for execution against the Government and its Organs and held thus:

“Having stated the foregoing, and since decrees will from time to time be issued against the Government, what then is the option available to a party who holds a decree against the Government? The only remedy available to such a person is to institute judicial review proceedings and seek an Order of *Mandamus* to compel the Government to settle the decree in question...

It is clear beyond any peradventure that the procedure to be followed in execution against the Government is to seek an Order of *Mandamus* to compel the relevant person in the Government to settle the decree in question.”
 4. The Applicant submits that the *Constitution* is a progressive one that seeks to create equity, equality and parity to all litigants under the law.
 5. Article 2 of the *Constitution* enjoins all to be equal and under the law.
 6. Article 40 of the *Constitution* protects the Right to Property and that the State "shall not deprive a person of Property of any description".
 7. Article 48 of the *Constitution* guarantees access to justice to all.
 8. Article 159 of the *Constitution* states that justice "shall be done to all irrespective of status"
 9. Issuance of a decree is the culmination of a litigation process. The law intends that the decree be complied with.
 10. The *Constitution* demands that all are equal before the law.
 11. The enforcement of decrees against the Government must at all be fair and equitable to all parties and the Government cannot be the only one that can be execute its decrees like other litigants but when it comes to execution against it, it is protected.



12. The Applicant has satisfied this court that it is entitled to the orders as sought.

Order:

1. A Notice to Show Cause do issue to the Respondents:
 - a. CECM, Finance & Economic Affairs.
 - b. Chief Officer, Revenue Administration.
 - c. County Secretary, Nairobi City County.
 - d. County Attorney.
 - e. Chief Officer, Finance/County Treasurer Nairobi
2. City County to Show Cause why Contempt of Court Proceedings should not be commenced against them for disobedience of Orders of this Honourable Court given on February 13, 2024.
3. The matter shall proceed with the hearing of the said Notice on 11.11.24 at 10.30 am.
4. The officers shall attend open court in person that day.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF SEPTEMBER, 2024.

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J. M. CHIGITI (SC)

JUDGE

