



**Aburi v County Secretary, Meru County; Murungi & another (Interested Parties)
(Petition E013 of 2021) [2023] KEHC 26234 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26234 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
PETITION E013 OF 2021
TW CHERERE, J
NOVEMBER 30, 2023**

BETWEEN

MPURU ABURI PETITIONER

AND

COUNTY SECRETARY, MERU COUNTY RESPONDENT

AND

KIRAITU MURUNGI INTERESTED PARTY

BONTEN MEDIA GROUP LIMITED INTERESTED PARTY

RULING

1. By judgment dated May 26, 2022 but inadvertently indicated as May 26, 2021, this court made the following orders as against the Respondent:
 1. The Petition dated 18th May 2021 and filed on 19th May, 2021 has merit
 2. Preliminary Objection dated 5th July 2021 is without merit and it is overruled
 3. A declaration is hereby issued that failure by the Respondent to provide information sought under article 35 of *the Constitution* as read with section 4 & 8 of the *Access to Information Act* 2016 on the basis on the Petitioner's request dated 26th March, 2021 is a violation of Petitioner's right to access information.
 4. An order of Mandamus is hereby issued compelling the Respondent to forthwith provide at the Respondent's costs, information sought by the Petitioner vide his letter to the Respondent dated 26th March, 2021.
 5. Costs to the Petitioner.



2. An issue has arisen concerning who is to bear the Petitioner's cost and the 1st Interested Party has by notice of motion dated 27th September, 2023 filed on 28th September, 2023 sought the court's clarification on the issue of costs.
3. An order of review may be granted whenever the court considers that it is necessary to correct an apparent error or omission on the part of the court. The error or omission must be self-evident and should require no elaborate argument to be established (See *National Bank of Kenya Limited v Ndungu Njau* [1997] eKLR)
4. Section 27(1) of the *Civil Procedure Act* gives courts unfettered discretion to determine by whom costs are to be paid. It is trite that costs follow the event and a successful litigant ought to be fairly reimbursed for the costs that he has had to incur.
5. Petitioner having succeeded as against the respondent, order No. 5 of the judgment dated May 26, 2022 but inadvertently indicated as May 26, 2021 is reviewed to the extent that costs to the petitioner shall be borne by the respondent.

DATED AT MERU THIS 30TH DAY OF NOVEMBER 2023



T. W. CHERERE

JUDGE

Appearance

Court Assistants - Kinoti/Munene

For the Petitioner - Mr. Atheru for Thurania Atheru & Co. Advocates

For the Respondent - N/A

For 1st Interested Party - Mr. Omagwa for Munga Kibanga & Co Advocates

For 2nd Interested Party - Mr. Atheru for Thurania Atheru & Co. Advocates

