



**Republic v County Government of Trans Nzoia & 3 others; Grandways  
Venture Limited (Exparte Applicant) (Judicial Review Cause E002 of 2023)  
[2023] KEHC 25692 (KLR) (23 November 2023) (Judgment)**

Neutral citation: [2023] KEHC 25692 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KITALE  
JUDICIAL REVIEW CAUSE E002 OF 2023  
AC MRIMA, J  
NOVEMBER 23, 2023**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE COUNTY GOVERNMENT OF TRANS NZOIA ..... 1<sup>ST</sup> RESPONDENT**

**THE COUNTY SECRETARY, TRANS NZOIA COUNTY ..... 2<sup>ND</sup> RESPONDENT**

**THE CHIEF FINANCE OFFICER, TRANS NZOIA COUNTY .... 3<sup>RD</sup>  
RESPONDENT**

**THE CHIEF OFFICER GENDER, YOUTH, SPORTS CULTURE & TOURISM  
TRANS NZOIA COUNTY ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**GRANDWAYS VENTURE LIMITED ..... EXPARTE APPLICANT**

**JUDGMENT**

1. By way of Judicial Review proceedings, the *Ex-parte* Applicant herein, Grandways Venture Limited, invoked the jurisdiction of this Court and *vide* an application by way of a Notice of Motion dated 12<sup>th</sup> May, 2023 sought the following reliefs: -

1. That the Honourable Court be pleased to grant to the Applicant: -

i. An Order Of *Mandamus* directed at the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents compelling them to pay Kshs. 4,139,229.60 being the decretal sum arising from The Matter Of Chief Magistrate’s Court Civil Suit No. 44 Of 2020;



- ii. An Order Of *Mandamus* directed at the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents compelling them to pay Kshs. 277,495.00 being the taxed costs In The Matter Of Chief Magistrate’s Court At Kitale Civil Suit No. 44 Of 2020;
  - iii. An Order Of *Mandamus* directed at the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents compelling them to reinstate the premises and handover vacant possession of the ex-parte Applicant’s premises as ordered In The Matter Chief Magistrate’s Court At Kitale Civil Suit No. 44 Of 2020;
2. That the Honourable Court be pleased to grant such or further reliefs at it may deem fit in the circumstance.
  3. That the costs of these proceedings be borne by the Respondents.
2. The gravamen of the instant proceedings was that the *Ex-parte* Applicant filed a civil suit in the Chief Magistrate’s Court at Kitale being CMCC No. 44 of 2020; *Grandways Venture Limited vs. The County Government of Trans Nzoia* (hereinafter referred to as the ‘Civil suit’).
  3. Judgment in the civil suit was delivered on 25<sup>th</sup> May, 2021 in the following terms: -
    - a. The Defendant is ordered to pay rental arrears amounting to Kshs. 3,322,533.00 to the Plaintiff.
    - b. The Defendant is ordered to pay accrued rent or mesne profits at Kshs. 150,950.80 per month from April 2020 till date of handing over vacant possession of the premises.
    - c. The Defendant is ordered to give vacant possession of the premises (to return the said premise to its original state), to the Plaintiff.
    - d. The Defendant is ordered to pay all utility charges as provided for in the lease agreement.
    - e. The Plaintiff has the costs of the suit and interests at court rates.
  4. The *Ex-parte* Applicant lamented that efforts to have the decretal sum settled had been futile and the sums remained due and owing. The *Ex-parte* Applicant was further aggrieved by the Respondents’ failure to handover vacant possession of the suit premises. The failure to abide by the trial Court’s judgment in the civil suit coupled with the *Ex-parte* Applicant’s inability to attach the 1<sup>st</sup> Respondent’s assets were the reasons for the present proceedings. The *Ex-parte* Applicant urged this Court to grant the reliefs sought as it was in the interest of justice.
  5. During the hearing of the substantive motion, this Court confirmed and was satisfied that service of the pleadings upon the Respondents was properly effected. In fact, a Counsel, Miss. Mukamo, appeared in Court on 2<sup>nd</sup> August, 2023 and sought for time for the Respondents to organize for the settlement of the dues herein. The hearing, however, proceeded.
  6. This Court is now invited to determine whether the present motion is with merit and ought to be granted in the circumstances.
  7. The *Ex-parte* Applicant took out similar execution proceedings *vide* Judicial Review No. E003 of 2022. On 3<sup>rd</sup> November, 2022 this Court declined to issue the orders sought for want with compliance with the law on execution against Government.
  8. This Court has now carefully perused the instant record. The Court is satisfied that indeed the *Ex-parte* Applicant has now fully complied with all the procedural requirements towards execution against the Respondents. The Applicant is now entitled to the orders sought.



9. Consequently, the following orders do hereby issue: -

- a. An Order of *Mandamus* is hereby issued as sought in prayer 1 of the Notice of Motion dated 12<sup>th</sup> May, 2023.
- b. Costs of these proceedings to be borne by the Respondents.

Orders accordingly.

**DELIVERED, DATED AND SIGNED AT KITALE THIS 23<sup>RD</sup> DAY OF NOVEMBER, 2023.**

**A. C. MRIMA**

**JUDGE**

Judgment delivered virtually in the presence of: -

Mr. Que, Learned Counsel for the Ex-parte Applicant.

No appearance for the Respondents.

