



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**JUDICIAL REVIEW DIVISION**

**JR CASE NO. 315 OF 2013**

**REPUBLIC.....APPLICANT**

**VERSUS**

**JUSTUS WAINAINA NJUGUNA.....1<sup>ST</sup> RESPONDENT**

**CITY COUNCIL OF NAIROBI.....2<sup>ND</sup> RESPONDENT**

**CHIEF LANDS REGISTRAR.....3<sup>RD</sup> RESPONDENT**

**EX-PARTE**

**EVA GAITHA MIRINGU**

**(Alias EVANGELINE MICERE GAITHA)**

**JUDGEMENT**

1. Through the Notice of Motion application dated 2<sup>nd</sup> October, 2013, the ex parte Applicant, Eva Gaitha Miringu alias Evangeline Micere Gaitha prays for an order of mandamus compelling the 2<sup>nd</sup> Respondent to make payment of the sum of Kshs.301,136/= in satisfaction of the Certificate of Taxation issued in **Nairobi ELC No. 1371 of 2007, Eva Gaitha Miringu (alias Evangeline Micere Gaitha) v Justus Wainaina Njuguna and 2 others**. The ex parte Applicant has named Justus Wainaina Njuguna, City Council of Nairobi and the Chief Lands Registrar as the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> respondents respectively.

2. In brief, the ex parte Applicant's case is that she successfully sued the respondents herein in **Nairobi ELC No. 1371 of 2007** for ownership and possession of all the property known as Jamhuri Phase II, Plot No. 93 currently known as Jamhuri Phase II, Plot 62/623. She was also awarded costs of the suit.

3. Thereafter she filed party and party bill of costs against the 1<sup>st</sup> and 2<sup>nd</sup> respondents which was taxed at Kshs.301,136/= as per the Court's ruling delivered on 27<sup>th</sup> June, 2012. According to the ex parte Applicant, a Certificate of Taxation subsequently issued by the Deputy Registrar was forwarded to the 2<sup>nd</sup> Respondent. However, the 2<sup>nd</sup> Respondent has failed to pay the amount indicated in the Certificate of Taxation thus necessitating these proceedings.

4. The application is not opposed by any of the respondents.

5. An order of mandamus is issued to compel the performance of a statutory duty owed to an applicant by a public officer or authority where the public officer or authority has, despite demand, refused to perform the duty-see **Shah v Attorney General (No. 3) Kampala HCMC No. 31 of 1969, [1970] EA 543**.

6. The ex parte Applicant herein has averred that she served the Certificate of Taxation upon the 2<sup>nd</sup> Respondent but there has been no payment.

7. The conditions for grant of an order of mandamus are thus satisfied. An order of mandamus will therefore issue as prayed in the Notice of Motion dated 2<sup>nd</sup> October, 2013. The ex parte Applicant will also have the costs of these proceedings from the 2<sup>nd</sup> Respondent.

Dated, signed and delivered at Nairobi this 16<sup>th</sup> day of Feb., 2016

**W. KORIR,**

**JUDGE OF THE HIGH COURT**