



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**JUDICIAL REVIEW MISC.CIVIL APPLICATION NO. 33 OF 2016**

**MILIMANI PRIMARY SCHOOL.....EXPARTE APPLICANT/PLAINTIFF**

**VERSUS**

**NAIROBI CITY COUNTY GOVERNMENT.....RESPONDENT/DEFENDANT**

**JUDGMENT**

1. The Notice of Motion dated 22<sup>nd</sup> March 2016 is brought under the provisions of Order 53 Rule 3 of the Civil Procedure Rules seeking for orders of Judicial Review Mandamus to compel the respondent the County Government of Nairobi to settle costs as taxed against it in Judicial Review case No. 472/2009 and as per certificate of costs dated 7<sup>th</sup> January 2016 being party and party costs in the matter.

2. The respondent was served with the Notice of Motion which was filed with leave of court granted on 7<sup>th</sup> March 2016. The respondent filed a preliminary objection which was argued and dismissed on 22<sup>nd</sup> July 2016 and the respondent was granted leave to file a replying affidavit for interpartes hearing today but which has not been filed to date.

3. I have considered the Notice of Motion, the grounds, statements of facts and verifying affidavit together with the annexed supporting documents. I am satisfied that the Notice of Motion is merited I therefore grant prayer No. 1 and 2 of the Notice of Motion dated 22<sup>nd</sup> March 2016 and order that the Judicial Review Order of Mandamus be and is hereby issued compelling the County Government of Nairobi Executive Committee Member for Finance and Economic Planning to satisfy the court order for taxed costs vide certificate of costs dated 7<sup>th</sup> January 2016 in the sum of shs 772,830. I award costs of this Judicial Review and of the application for leave to the applicant and direct that the said costs be settled within 90 days. In default, the applicant be at liberty to apply for appropriate orders. Orders accordingly.

Dated, signed and delivered at Nairobi this 27th day of July 2016.

**R.E. ABURILI**

**JUDGE**