



**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**JUDICIAL REVIEW NO. 301 OF 2016**

**IN THE MATTER OF AN APPLICATION BY LT COL (RTD) RICHARD NCHAPI LEIYAGU  
FOR AN ORDER OF MANDAMUS**

**AND**

**IN THE MATTER OF PART IV OF THE GOVERNMENT PROCEEDINGS ACT**

**AND**

**IN THE MATTER OF SECTION 7 & 9 OF THE LAW REFORM ACT**

**AND**

**IN THE MATTER OF ENFORCEMENT OF A DECREE OF THE EMPLOYMENT AND  
LABOUR RELATIONS COURT IN PETITION NO. 6 OF 213, NAIROBI AND  
CONSEQUENTIAL ORDERS**

**REPUBLIC.....APPLICANT**

**VERSUS**

**PRINCIPAL SECRETARY MINISTRY OF DEFENCE.....1<sup>ST</sup> RESPONDENT**

**ATTORNEY GENERAL .....2<sup>ND</sup> RESPONDENT**

**AND**

**LT. COL (RTD) RICHARD NCHAPI LEIYAGU....THE EX-PARTE APPLICANT**

**JUDGMENT**

1. This court did on 15<sup>th</sup> July 2016 grant the exparte applicant leave to apply for Judicial Review orders of Mandamus to compel the respondents to settle decree in Industrial Court Nairobi Petition No. 6 of 2013 amounting to shs 9,957,862.08 inclusive of interest and costs.
2. The substantive motion was filed on 29<sup>th</sup> July 2016 within the 21 days stipulated in the order for leave.

3. The substantive motion was served upon the respondents who appeared on 5<sup>th</sup> October 2016 and took this hearing date by consent while stating that they were working on payment of the decreed sum.

4. There is no replying affidavit to the application and neither is there evidence of payment of the decretal sum.

5. I have considered the notice of motion as supported by the statutory statement, verifying affidavit and the annexures.

6. I am satisfied that the applicant holds a valid decree of the court which has not been satisfied from 10<sup>th</sup> June 2015 despite requests as shown by correspondences.

7. In the premises, I am inclined to allow the judicial review application dated 28<sup>th</sup> July, 2016 and grant and I hereby issue the Judicial Review orders of Mandamus compelling the respondents to settle decree in Petition No. 6/2013 Industrial Court at Nairobi.

8. The said sums due to be settled within 90 days from the date hereof and in default, the applicant to file an appropriate application for contempt. Each party to bear costs of the judicial review proceedings.

**Dated, signed, and delivered at Nairobi this 23rd day of November, 2016.**

**R.E. ABURILI**

**JUDGE**

**In the presence of:**

Miss Mugo for the exparte applicant

Miss Gathoka for the respondents

CA: Adline