

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW DIVISION

JR CASE NO. 353 OF 2014

REPUBLIC.....APPLICANT

VERSUS

PRINCIPAL SECRETARY, MINISTRY OF

INTERIOR & COORDINATION OF

NATIONAL GOVERNMENT, KENYA POLICE.....RESPONDENT

Ex-parteELLAS MWANGANGI

JUDGEMENT

Through the notice of motion dated 13th October, 2014 the ex-parte Applicant, Elias Mwangangi, prays for an order of mandamus to compel the Respondent, the Principal Secretary in the Ministry of Interior and Co-ordination of National Government to pay him Kshs.701,903.35 together with interest at 12% from 1st October, 2014 until payment in full.

From the papers filed in Court it is revealed that the Applicant was the Plaintiff in **Meru Chief Magistrate's Court Civil Case No. 329 of 2011** in which he was claiming damages from the Attorney General for injuries sustained in a road traffic accident which had occurred on 2nd January, 2011. At the conclusion of the trial, the magistrate entered judgment in favour of the Plaintiff and awarded him damages.

Subsequently, a copy of the decree and a Certificate of Order against the Government were issued by the Court and served upon the concerned Ministry being the Respondent herein. It is the Applicant's case that the Respondent has failed, refused or neglected to pay the amount indicated in the Certificate of Order hence the need for an order of mandamus.

The application is not opposed.

An order of mandamus is issued to a public authority compelling it to perform its statutory duty where a person who has a right has asked the public authority to discharge its obligation but the public authority has failed or refused to do so. The Applicant has demonstrated that the Respondent was asked to pay the amount indicated in the Certificate of Order against the Government but no action had been taken by the time he filed this application.

Section 21 (3) of the Government Proceedings Act, Cap 40 imposes a duty on an accounting officer of a government department to pay to the claimant or his advocate the amount indicated in a certificate of order. That duty has not been discharged in this particular case. An order of mandamus will therefore issue to compel the Respondent to pay to the Applicant the sum of Kshs.701,930.35 together with interest at 12% from 1st October, 2014 until payment in full. The Applicant will also have the costs of these proceedings.

Dated, signed and delivered at Nairobi this 26th day of February, 2015

W. KORIR,

JUDGE OF THE HIGH COURT