



**REPUBLIC OF KENYA**

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

**JUDICIAL REVIEW DIVISION**

**JR CASE NO. 233 OF 2014**

**REPUBLIC.....APPLICANT**

**VERSUS**

**COMMISSIONER FOR CO-OPERATIVE**

**DEVELOPMENT.....RESPONDENT**

**EX-PARTE**

**TELKOM KENYA LIMITED**

**JUDGEMENT**

1. The ex parte Applicant, Telkom Kenya Limited through the notice of motion application dated 24<sup>th</sup> July, 2014 prays for an order of mandamus to compel the Respondent, the Commissioner for Co-operative Development to pay Kshs.371,249/= to the Applicant being costs taxed and certified in **Nairobi H.C. Misc. Civil Application No. 119 of 2011 Telkom Kenya Ltd v The Commissioner for Cooperative Development and another.**

2. The application is not opposed.

3. The Applicant's case is that it **filed Judicial Review Misc. Application No. 119 of 2011** against the Respondent. Mawasiliano Sacco Society Ltd was an Interested Party. Judgement was delivered on 26<sup>th</sup> March, 2012 in its favour and the Respondent was condemned to pay costs.

4. The party and party bill of costs was drawn, filed and taxed *inter partes*. A Certificate of Taxation for Kshs.371,249/= dated 4<sup>th</sup> November, 2013 was served on the Respondent on 12<sup>th</sup> November, 2013. The decree was extracted and served on the Respondent on 30<sup>th</sup> January, 2014. It is the Applicant's case that despite demand, the Respondent has failed or refused to discharge the decree.

5. Before this matter was concluded counsel for the Applicant swore a supplementary affidavit on 26<sup>th</sup> June, 2015 through which she exhibited a certificate of order against the government issued on 25<sup>th</sup> June, 2015.

6. An order of mandamus is a remedy that comes to the aid of an applicant to compel a public body or officer to perform a statutory duty where the body or officer has refused or neglected to do so. In the case before me the Applicant has demonstrated that the Respondent has refused or neglected to pay the sum of Kshs.371,249/= being costs awarded to the Applicant against the Respondent in a court case. The Respondent has a duty to comply with a court order.

7. The application therefore succeeds and an order of mandamus is issued compelling the Respondent to forthwith pay the Applicant the sum of Kshs.371,249/=. There is no order as to costs.

Dated, signed & delivered at Nairobi this 20<sup>th</sup> day of August, 2015

**W. KORIR,**

**JUDGE OF THE HIGH COURT**