



IN THE HIGH COURT AT NAIROBI

MILIMANI LAW COURTS

JUDICIAL REVIEW DIVISION

MISC. APPL. NO. 484 OF 2007

BETWEEN

REPUBLICAPPLICANT

AND

TOWN CLERK OF

COUNTY COUNCIL OF NAROK.....RESPONDENT

EXPARTE

BAWANI STORES LIMITED

JUDGMENT

1. The Notice of Motion dated 4th July 2008 seeks orders of mandamus to compel the Town Clerk, Narok County Council to satisfy the terms of the judgment in *Nakuru Chief Magistrate's Court Case No. 2360 of 2004 (Bawani Stores Limited v Narok County Council)*. By a judgment dated 28th November 2006, the applicant was awarded Kshs 592,122.10 together with interest at court rates. The costs were assessed at Kshs 75,402.00.
2. Despite notice and service of the application herein, the respondent has failed refused and or neglected to oppose it. On the basis of the supporting affidavit of Bipin Shah sworn on 4th July 2008, I am satisfied that the claim is due.
3. I however, note that the ex-parte applicant has been tardy in prosecuting the claim and has had the application dismissed for want of prosecution before hence, the respondent should not be punished by an award of interest. Interest on the decree thereon shall only accrue for a period of three years from the date of filing the Notice of Motion that is from 10th July 2008.
4. Costs in the matter are assessed at Kshs.50,000/= all inclusive.
5. The final orders are therefore as follows;

1. An order of mandamus be and is hereby issued against the Narok County to satisfy the

- judgment arising from Nakuru CMCC No. 2360 of 2004.**
- 2. Interest thereon shall accrue for a period of three years only from the date of filing the motion that is from 10th July 2008.**
 - 3. Costs of the application are assessed at Kshs.50,000/= only.**

DATED and DELIVERED at NAIROBI this 31st day of March 2014.

D.S. MAJANJA

JUDGE