



IN THE HIGH COURT AT NAIROBI

MILIMANI LAW COURTS

JUDICIAL REVIEW DIVISION

MISC. CIVIL APPL. NO. 118 OF 2007

BETWEEN

REPUBLICAPPLICANT

AND

THE PERMANENT SECRETARY MINISTRY OF DEFENCE.....RESPONDENT

EXPARTE

DANIEL KUNGU KIMANI

JUDGMENT

1. The matter before the court is a Notice of Motion dated 9th May 2007 in which the ex-parte applicant seeks an order of mandamus directing the respondent, the Principal Secretary in the Ministry of Defence to pay and settle the decretal sum arising from a judgment and decree of the *Milimani Chief Magistrate's Court* in *CMCC No. 4345 of 1996 (Daniel Kimani v Attorney General)* where the applicant was awarded the sum of Kshs.308,281/= being damages and costs by a judgment and decree delivered on 31st March 2000. The amount accrues interest at 12% per annum from 31st March 2000.
2. This matter has been dismissed twice and reinstated and I believe that the applicant has been rather tardy in prosecuting the application. In the circumstances, I shall grant the State a rebate on interest and the interest thereon from the decree shall accrue from 31st March 2000 for a period of two years only. Credit shall be given for the sum of Kshs.317,544.10 already paid on 22nd April 2002.
3. In the meantime I assess costs of this application at Kshs. 35,000/= only to obviate further delay in resolution of the matter.
4. In the circumstances, I make the following order;
 1. **An order of mandamus be and is hereby issued directing the applicant to pay the sum of Kshs. 308,281/= together with interest thereon at 12% per annum accruing from 31st March**

2000 for a period of 2 years only arising from the judgment and decree in Milimani CMCC No. 4345 of 1996.

- 2. The respondent shall be given credit of Kshs. 317,544.10 paid on 22nd April 2002.**
- 3. The costs of the application are assessed at Kshs. 35,000/= only.**

DATED and DELIVERED at NAIROBI this 20th day of March 2014.

D.S. MAJANJA

JUDGE