



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

**JUDICIAL REVIEW DIVISION**

**JR CASE NO. 107 OF 2012**

**REPUBLIC .....APPLICANT**

**VERSUS**

**PRINCIPAL SECRETARY MINISTRY OF**

**PLANNING & NATIONAL DEVELOPMENT .....1<sup>ST</sup> RESPONDENT**

**NATIONAL CONSTITUENCIES DEVELOPMENT**

**FUND MANAGEMENT COMMITTEE .....2<sup>ND</sup> RESPONDENT**

**KITUI SOUTH CONSTITUENCY**

**DEVELOPMENT FUND COMMITTEE .....3<sup>RD</sup> RESPONDENT**

**Ex-parte**

**EMMACULATE NDUKU MUSYULA**

**JUDGEMENT**

In the notice of motion dated 24<sup>th</sup> March, 2014 the ex-parte Applicant Emmaculate Nduku Musyula prays for an **“order of mandamus directing the respondents to pay the applicant the decretal sum in Nairobi CMCC No. 1037 of 2010 Emmaculate Nduku Musyula v the Hon. Attorney General being Kshs. 975, 307/= and interest thereon at court rates from 19<sup>th</sup> February, 2012 until payment in full and final satisfaction of the said decree.”**

The application is supported by a statutory statement and the verifying affidavit of the Applicant filed in court together with the chamber summons application for leave on 19<sup>th</sup> March, 2014. Briefly stated, the Applicant’s case is that she sued the respondents in Nairobi C.M.C.C. No. 1037 of 2010 and was awarded Kshs.975,307/= as damages and costs for injuries sustained in an accident in which she was hit by the respondents motor cycle Registration No. G. K. 952P. She later obtained among other documents, a certificate of order against the Government and served the same on the Attorney General who has failed or refused to satisfy the said certificate of order. That is why she seeks an order of mandamus to comply the respondents to pay the amount in the said certificate plus interest thereon. The respondents though duly served did not oppose the application.

An order of mandamus is issued to compel a public body to perform a statutory duty. For an order of mandamus to issue an applicant must show that he or she has a legal right to compel the respondent to do a specific act.

The Applicant has demonstrated that she has obtained a certificate of Order from the court and the amount appearing to be due to her has not been paid. The respondents have a duty to pay the amount in the certificate – see Section 21(3) of the Government proceedings Act, Cap 40. The Application is not opposed.

An order of mandamus is there issued compelling the respondents to pay the sum of Kshs.975,307/= together with interest from 19<sup>th</sup> February, 2012 until payment in full. The Applicant is also awarded costs against the respondent.

Dated, signed and delivered at Nairobi this 22<sup>nd</sup> day of July , 2014

**W. K. KORIR**

**JUDGE OF THE HIGH COURT**