



REPUBLIC OF KENYA

High Court at Mombasa

Judicial Review 39 of 2012

IN THE MATTER OF: AN APPLICATION FOR AN ORDER OF MANDAMUS

AND

IN THE MATTER OF: THE SENIOR RESIDENT MAGISTRATE'S (MOMBASA) CIVIL SUIT NO. 498 OF 1991 – MOHAMED BAISHE VERSUS THE HON. ATTORNEY GENERAL

AND

IN THE MATTER OF: DECREE DATED 31ST JULY, 1996 IN SRMC (MOMBASA) CIVIL SUIT NO. 498 OF 1991 MOHAMED BAISHE VERSUS THE ATTORNEY GENERAL

BETWEEN

MOHAMED BAISHE.....APPLICANT

AND

THE HON. ATTORNEY GENERAL.....RESPONDENT

THE PERMANENT SECRETARY (OFFICE OF THE PRESIDENT) –NAIROBI.....
.....INTERESTED PARTY

RULING

This is the Notice of Motion dated 13th July, 2012 by which the applicant seeks orders that:

“An order of mandamus do issue to compel the Interested Party herein being the Permanent Secretary, Office of the President to pay Kshs. 1,669,763.56 being the decretal sum plus interest thereon arising out of and calculated from the sum of Kshs. 180,000/= (being the decretal sum originally awarded) plus interest thereon accruing at the rate of 14% per annum from the 31st July, 1996 plus costs to the applicant in satisfaction of the decree issued on 31st July, 1996 in SENIOR RESIDENT MAGISTRATE’S COURT (MSA) CIVIL SUIT NO. 498 OF 1991 (MOHAMED BAISHE VS. THE ATTORNEY GENERAL).”

The application was supported by the annexed affidavit of the applicant. **MR. TAIB** appeared for the applicant whilst **MR. EREGI** acted for the Hon. Attorney General. I have considered the application before me. I have perused the certificate of order against the Government issued on 31st July, 1996 (Annexure ‘MB002’) which awarded the applicant a sum of Kshs. 229,730.15 together with interest thereon from 1st July, 1991 until payment in full. Several letters to the Attorney General seeking settlement went unanswered.

Mr. Eregi for the Attorney General did not oppose the application but merely sought time to arrange for payment of the sum due. In view of the fact that judgment was delivered in 1996, this matter has been left outstanding for over sixteen (16) years now. I am satisfied of the merit of this application and I do issue orders of mandamus as prayed. No order on costs.

Dated and delivered at Mombasa this 12th day of April, 2013.

M. ODERO
JUDGE

In the presence of:
No appearance for the Applicant
Mr. Eregi for the Respondent
Court Clerk Mutisya