



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT NAIROBI**

**MILIMANI LAW COURTS**

**Miscellaneous Application 265 of 2011**

**IN THE MATTER OF THE LAW REFORM ACT**

**AND**

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

**AND**

**IN THE MATTER OF ENFORCEMENT OF DECREE IN CMCC MILIMANI CIVIL SUIT  
NO.8054 OF 2008**

**BETWEEN**

**REPUBLIC .....APPLICANT**

**VERSUS**

**CITY COUNCIL OF NAIROBI.....1<sup>ST</sup> RESPONDENT**

**TOWN CLERK, CITY COUNCIL OF NAIROBI.....2<sup>ND</sup> RESPONDENT**

**EXPARTE**

**MAU TECHNICAL AGENCIES LIMITED**

**JUDGEMENT**

By way of a notice of motion dated 5<sup>th</sup> December, 2011 Mau Technical Agencies Limited (the ex-parte applicant) prays for an order of mandamus to issue compelling the City Council of Nairobi (the 1<sup>st</sup> respondent) and the Town Clerk, City Council of Nairobi (the 2<sup>nd</sup> respondent) **“to pay the applicant a sum of Kshs.864,177.70 together with costs of Kshs.57,432.00 being the decretal sum in Milimani CMCC No. 8054 of 2008.”** The ex-parte applicant also prays for the costs of the application. The

application is supported by the grounds on the face of the chamber summons for leave dated 26<sup>th</sup> September, 2011, a statutory statement dated 26<sup>th</sup> September, 2011 and a verifying affidavit sworn on 30<sup>th</sup> September, 2011 by James Mwangi the Managing Director of the ex-parte applicant company.

The evidence placed before the court shows that the ex-parte applicant herein was the plaintiff in Nairobi Milimani Commercial Court CMCC No. 8054 of 2008 and the 1<sup>st</sup> respondent herein i.e. the City Council of Nairobi was the defendant in that case. Judgment was entered in favour of the ex-parte applicant and a decree drawn on 10<sup>th</sup> August, 2011. There is evidence that through a letter dated 2<sup>nd</sup> August, 2011 the 1<sup>st</sup> respondent's advocates were notified of the judgement and asked for a cheque in settlement of the judgment. The letter was not responded to.

As matters stand, the application is not opposed. The ex-parte applicant has demonstrated that it obtained a decree against the 1<sup>st</sup> respondent but the decree cannot be executed and the respondents have refused to satisfy the decree. This is one case that cries for an order of mandamus. The application is therefore allowed as prayed and the ex-parte applicant will have the costs of the application.

**Dated and signed at Nairobi this 23rd day of March, 2012**

**W. K. KORIR**  
**JUDGE**