



**REPUBLIC OF KENYA**

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

**JUDICIAL REVIEW 59 OF 2010**

**REPUBLIC .....APPLICANT**

**VERSUS**

**PERMANENT SECRETARY, MINISTRY OF JUSTICE, NATIONAL COHESION &  
CONSTITUTIONAL AFFAIRS .....RESPONDENT**

**EX-PARTE**

**GACHOKA MWANGI**

**JUDGEMENT**

Initially through the notice of motion dated 18<sup>th</sup> November, 2010 Gachoka Mwangi the ex-parte applicant herein had prayed for an order of mandamus directed at the Permanent Secretary, Ministry of Justice and Constitutional Affairs compelling her to pay the decretal sum in Nairobi Chief Magistrate's Court Civil Case No. 9796 of 2004 which stood at kshs.768, 133.40 on 17<sup>th</sup> November, 2010. In the course of the proceedings the applicant realized that the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security was the correct respondent. He sought to amend the notice of motion and obtained leave from the court on 29<sup>th</sup> November, 2011 to carry out the amendment.

Now through the amended notice of motion dated 1<sup>st</sup> August, 2011, the applicant seeks an order of mandamus compelling the Permanent Secretary, Ministry of State for Provincial Administration and Internal Security to pay the said decretal sum.

It is not disputed that by a decree dated 16<sup>th</sup> April, 2007 and a certificate of costs dated 9<sup>th</sup> April, 2007 the applicant was awarded Kshs.532, 119.60 in Nairobi Milimani Chief's Magistrate's Court Civil Case No. 9796 of 2004. It is also not disputed that the said amount plus interest of 12% per annum from 16<sup>th</sup> April, 2007 has not been paid to the applicant to date.

In the supplementary submissions dated 21<sup>st</sup> February, 2012 the respondent admitted that the decretal amount plus interest due was Kshs.707, 762.30. It is therefore clear that the applicant's claim is not opposed. The respondent only disputes the interest payable to the applicant.

The application is therefore allowed so that an order of mandamus is issued compelling the respondent to pay the applicant the sum 532,119.60 together with interest at 12% per annum from 16<sup>th</sup> April, 2007 until payment in full. This will enable the parties to calculate interest afresh because interest is the only disputed issue. The applicant will also get the costs of this application from the respondent.

**Dated and signed at Nairobi this 26<sup>th</sup> day of July , 2012**

**W. K. KORIR, J**