

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 377 of 2012

KIGWOR KENYA LIMITED.....PETITIONER

AND

CITY COUNCIL OF NAIROBI1ST RESPONDENT

ROBA DUBA,TOWN CLERK NAIROBI CITY COUNCIL.....2ND RESPONDENT

ADUMA OWUOR, DIRECTOR LEGAL AFFAIRS.....3RD RESPONDENT

THE ATTORNEY GENERAL4TH RESPONDENT

RULING

The only issue for my consideration is whether the petitioner should pay costs in view of the fact that the matter has been settled. As this is a matter of enforcement of fundamental rights, the court is always wary of imposing costs that would deprive or hinder access to justice guaranteed under **Articles 22** and **38** of the Constitution. However, costs are still in the courts discretion.

In this case, the subject of dispute, that is rates, were paid on 30th August 2012 at 8.07 am and the petition which sought to enforce the payment was filed on the same day. In the circumstances, I think this is a proper case that costs should be ordered as the respondent was forced to incur costs to defend the suit which had been settled on the date it was filed.

I therefore mark the suit as settled with an order that the petitioner pay the 1st respondent the sum of Kshs.10,000/= only to be paid within 30 days.

DATED and DELIVERED at NAIROBI this 15th day of October 2012

**D.S. MAJANJA
JUDGE**