



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**MISCELLANEOUS APPLICATION 1025 OF 2006**

**REPUBLIC**

**AND**

**IN THE MATTER OF:**

**AND**

**IN THE MATTER OF: EXECUTION PROCEEDINGS IN THE HIGH  
COURT OF KENYA AT MOMBASA**

**V E R S U S**

**IN THE MATTER OF: 1. PERMANENT SECRETARY – MINISTRY OF  
LIVESTOCK & FISHERIES DEVELOPMENT**

**2. ATTORNEY GENERAL**

**SAID HASSAN HEMEDT/AGHANIYA PETROL STATION ... APPLICANT**

**V E R S U S**

**ATTORNEY GENERAL & ANOTHER ..... RESPONDENTS**

**R U L I N G**

By this application, the applicant seeks an order of mandamus to issue against the Attorney General and the Permanent Secretary, Ministry of Livestock and Fisheries Development, to effect payment of the decretal amount in the sum of Kshs. 94,254/- plus costs and interest in the decree passed by the Court in Kilifi CMCC No. 106 of 2006, SAID HASSAN HEMED T/A GHANIYA PETROL STATION v. ATTORNEY GENERAL, and also prays that the costs of the application be provided for. The application is dated 16<sup>th</sup> November, 2006, and is made under O. LIII rule 3 of the Civil Procedure Rules.

The background to this application is that a judgment was entered in favour of the plaintiff in this matter

on 1<sup>st</sup> December, 2005. It was followed by a Certificate of Order against the Government issued on 23<sup>rd</sup> February, 2006. In spite of the fact that the interest keeps on accumulating, the defendants are not moved.

Although the Respondents were served in sufficient time to attend court, they did not attend; nor did they file any replying affidavit or grounds of opposition. In the event, the application is unopposed.

I accordingly direct that an order of mandamus do issue in terms of prayer 1 of the Notice of Motion dated 16<sup>th</sup> November, 2006. The Respondents will also pay the costs of this application.

It is so ordered.

Dated and delivered at Mombasa this 15<sup>th</sup> day of May, 2009.

L. NJAGI

JUDGE