



IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

AND

IN THE MATTER OF SECTION 263A (a) OF THE LOCAL GOVERNMENT ACT, CHAPTER 265 OF THE LAWS

AND

IN THE MATTER OF

REPUBLIC APPLICANT

V E R S U S

THE TOWN CLERK, CITY COUNCIL OF NAIROBI..... RESPONDENT

EX-PARTE- DAVID NJOGU T/A D. NJOGU & COMPANY ADVOCATES

R U L I N G

This is a Notice of Motion dated 8th October, 2008 filed by M/S D. Njogu & Company advocates, who is the ex parte applicant. The application was filed under section 8 and 9 of the Law Reform Act (**Chapter 26 of the Laws of Kenya**), section 263(A) (a) of the Local Government Act (**Chapter 265 of the Laws of Kenya**), and Order LIII Rule 3 of the Civil Procedure Rules. There are 9 mandamus orders sought, relating to decisions made for payment in civil cases.

The respondent, the Town Clerk, City Council of Nairobi was served but did not file any response to the application. In fact, on 19th June, 2009, Mr. Abwao who appeared for the respondent stated that the respondent was making arrangements to settle the amounts within one month. Though this matter was adjourned to 17th July, 2009, no payment was made.

In my view, I cannot refuse to grant the orders sought. First of all, there is no objection or opposition filed to the application. Secondly, the counsel for the respondent has even come to court and stated that settlement of the amounts was being considered.

Under section 263A (a) of the Local Government Act (**Cap. 265**) the Town Clerk has a statutory responsibility to satisfy court decrees or decisions from the funds of the Local Authority. I will therefore allow the application and grant the orders sought.

Consequently, I order as follows-

1. *I grant all the mandamus orders sought herein.*
2. *The respondent will pay the applicant's costs of the proceedings.*

It is so ordered.

Dated and delivered at Nairobi this 28th day of October, 2009.

GEORGE DULU

JUDGE.