



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI (NAIROBI LAW COURTS)**

**Miscellaneous Application 345 of 2005**

**PETER P.M. NDURURI.....APPLICANT**

**Versus**

**THE ATTORNEY GENERAL.....RESPONDENT**

**JUDGMENT**

Before me is the Notice of Motion dated 20<sup>th</sup> April 2005 in which Peter P.M. Ndururi seeks an order of mandamus to issue against the Hon. The Attorney General and the Permanent Secretary Ministry of Health to compel the Permanent Secretary to pay the Applicant a sum of Kshs.2,345,261/= and costs of this motion. The motion is brought pursuant to Order 53 Rule 3 Civil Procedure Rules, supported by a statement dated 7<sup>th</sup> March 2005 and a verifying affidavit of Samuel Gakuru, Counsel for the Applicant.

The Plaintiff got judgment in CMCC 11250/03 for a sum of Kshs.1,992,757/= plus costs and interest against the Respondent. The Applicant has exhibited a decree dated 17<sup>th</sup> September 2004 and a certificate of order against the Government dated 26<sup>th</sup> October 2004. They were served on the Attorney General on 9<sup>th</sup> November 2004 in terms of the Affidavit of Service of Patrick Juma Yuka sworn on 8<sup>th</sup> March 2005.

The Respondents were served with this application and Counsel for the Respondent appeared severally but no reply has been filed to the motion. The Respondent was served with the hearing notice for today but there was no appearance. There is no contest to the applicants claim. There is evidence that the sum is due and owing from the Respondent following the judgment in CMCC 11250/03 and the Applicant is entitled to payment. No reason has been given by the Respondent as to why there has been no payment and this court hereby issues an order of mandamus in terms of prayers 1 & 2 of the Notice of Motion dated 20<sup>th</sup> April 2005.

Dated and delivered this 19<sup>th</sup> day of September 2008.

R.P.V. WENDOH

JUDGE

Present:

Gakuru for the Applicant

Elizabeth: Court Clerk