

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU

Misc Civ Appli 490 Of 2005

REPUBLIC.....
APPLICANT

VERSUS

THE PERMANENT SECRETARY INCHARGE OF INTERNAL SECURITY
AND

PROVINCIAL ADMINISTRATION.....
RESPONDENT

AND

JAMES NDENGERE K. MUKUMBWA.....
.....SUBJECT

RULING

The applicant filed a notice of motion under **order LIII rule 3** of the **Civil Procedure Rules** and **Sections 8** and **9** of the **Law Reform Act Cap 26** of the **Laws of Kenya** seeking for an order of mandamus to compel the respondent to settle the decree issued in Nyahururu **SPMCC No. 236 of 2003** for payment of Kshs.647,028/- together with costs and interest thereon with effect from 13th October, 2004 until payment in full.

The grounds upon which the said application was made were that the subject motor vehicle was stolen from the applicant's home on the night of 17th and 18th November 1999 and the theft was reported to the relevant police station and the stolen motor vehicle was recovered and kept at a police station but instead of the same being returned to its owner the same was sold by the police. Thereafter the subject filed Nyahururu **SPMCC No. 236 of 2003** against the Attorney General and the Commissioner of Police and on 13th October, 2004 judgment was entered for the plaintiff therein in the sum of Kshs.647,028/-. The subject has since then made considerable effort to have a decree in the said matter settled but without any success. The applicant annexed to his affidavit in support of his application the proceedings and judgment in the said matter and all the other relevant documents including the registration book of the motor vehicle and a letter from the Commissioner of Motor Vehicles to confirm that he was the registered owner of the same. The Attorney General was served with the said application on 4th August 2005 but he did not bother to defend the same.

I am satisfied that the order of mandamus sought by the applicant is merited and I hereby grant the same together with the costs of the application.

DATED, SIGNED AND DELIVERED at Nakuru this 10th day of March, 2006.

D. MUSINGA

JUDGE

