



**Republic v Betting Control Licencing Board & another; Outdoor Advertising Association of Kenya (Exparte Applicant) (Judicial Review 142 of 2019) [2025] KEHC 2603 (KLR) (Judicial Review) (14 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2603 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW 142 OF 2019  
JM CHIGITI, J  
MARCH 14, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**BETTING CONTROL LICENCING BOARD ..... 1<sup>ST</sup> RESPONDENT**

**NAIROBI COUNTY GOVERNMENT ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**OUTDOOR ADVERTISING ASSOCIATION OF KENYA .... EXPARTE APPLICANT**

**RULING**

1. The application before this Court is the Notice of Motion dated 13<sup>th</sup> May, 2024. The application uunder Section 8(2) of the *Law Reform Act*, Cap 26 of the Laws of Kenya, Order 53, rules 3 and 4 of the *Civil Procedure Rules* 2010 made under Cap 21 of the Laws of Kenya and Section 21 of the *Government Proceedings Act* Cap 40 of the Laws of Kenya. It seeks the following orders:
  1. An Order of mandamus be and is hereby issued to compel the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to pay the Exparte Applicant Kshs 4,071,535.00 under the Certificate of Taxation dated 17<sup>th</sup> April, 2024.
  2. The costs of this application be borne by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.
2. It is the Applicants case that they filed a bill of costs which was taxed on 23<sup>rd</sup> April, 2024 at Kshs 4,071,535.00.



3. A Certificate of Costs was issued on 17<sup>th</sup> April, 2024.
4. It is contended that request for payment of the taxed costs made to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on 23<sup>rd</sup> April, 2024 has not been acted upon or responded to.
5. The applicant argues that Leave to commence these proceedings was granted to them by this honorable court on 9<sup>th</sup> May, 2024.
6. This court by its directions dated 3<sup>rd</sup> February, 2025 granted the Respondents leave to file their responses and submissions to the Notice of Motion dated 13<sup>th</sup> May, 2024.
7. The 2<sup>nd</sup> Respondent opposes the Application through a Grounds of Opposition 10<sup>th</sup> June, 2024. They contended that:
  1. The Application is misconceived, incompetent and is only anchored at vexing the 2<sup>nd</sup> Respondent.
  2. The Applicant has not demonstrated any efforts made by it in demanding payment of its taxed costs sought from the 2<sup>nd</sup> Respondent prior to filing the instant Application.
  3. The Applicant has also not demonstrated the refusal by the 2<sup>nd</sup> Respondent in settling the its taxed costs of Kshs. 4,071,535/- taking note the Certificate of costs dated 17<sup>th</sup> April 2024 was served upon the 2<sup>nd</sup> Respondent's Advocates on 23<sup>rd</sup> May 2024, barely two weeks before filing the instant Application.
  4. This is mischief on the part of the Applicant to allege that the to the 2<sup>nd</sup> Respondent has refused to settle the taxed costs whereas it has not exhausted all the payment mechanisms noting that the payment of its taxed costs is still being processed by the 2<sup>nd</sup> Respondent, who received the Certificate of costs barely two weeks before the instant Application was filed.
  5. The Application is therefore an abuse of the court process, offending the doctrine of exhaustion and yearning for dismissal since the same has been brought prematurely noting that the taxed costs sought by the Applicant is still being processed by the 2<sup>nd</sup> Respondent considering that the same is indeed a substantial amount.
  6. The Applicant has not satisfied the requisite conditions to warrant the granting of an Order of Mandamus.
  7. The Application as filed and prayers sought therein are unmeritorious, an abuse of the Court process and should be dismissed with costs to the 2<sup>nd</sup> Respondent
8. The 1<sup>st</sup> Respondent did not file any responses to the Applicant's application before this honorable court.
9. The applicant prays that the Respondent's ground of opposition be struck out with costs and that it's notice of motion dated 1<sup>st</sup> July, 2024 be allowed as prayed.

### **Analysis and Determination**

10. *Halsbury's Law of England, 4th Edn. Vol. 7 p. 111 para 89* thus:

“The order of mandamus is of most extensive remedial nature and is in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which



appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right and it may issue in cases where although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual."

11. The Respondent's argument that The Applicant has not demonstrated any efforts made by it in demanding payment of its taxed costs sought from the 2<sup>nd</sup> Respondent prior to filing the instant Application cannot form the basis to deny the Applicants its entitlement under the certificate of costs.
12. Further the Respondents argument that The Applicant has also not demonstrated the refusal by the 2<sup>nd</sup> Respondent in settling the its taxed costs of Kshs. 4,071,535/- taking note the Certificate of costs dated 17<sup>th</sup> April 2024 was served upon the 2<sup>nd</sup> Respondent's Advocates on 23<sup>rd</sup> May 2024, barely two weeks before filing the instant Application is neither here nor there.
13. The Respondent is simply admitting that they are aware of the claim and that they are aware that they are under a duty to pay. It does not matter whether they were notified two weeks before the filing of the claim. The Applicant has a legitimate expectation that the claim must be settled which the Respondents have failed to do.
14. The argument by the Respondent that the Applicant is invoking mischief in alleging that the to the 2<sup>nd</sup> Respondent has refused to settle the taxed costs whereas it has not exhausted all the payment mechanisms noting that the payment of its taxed costs is still being processed by the 2<sup>nd</sup> Respondent, who received the Certificate of costs barely two weeks before the instant Application was filed is misplaced and out of order.
15. The Applicant is admitting that payment of the taxed costs is still being processed by the 2<sup>nd</sup> Respondent thereby acknowledging that it has to pay the Applicant. The Respondent has not demonstrated why it has not settled nor made a proposal on how it intends to settle the claim. This court is at this point persuaded that an order of Mandamus should be granted as prayed.
16. This court does not see how the Applicant is offending the doctrine of exhaustion or how the application has been brought prematurely noting that the taxed costs sought by the Applicant is still being processed by the 2<sup>nd</sup> Respondent considering that the same is indeed a substantial amount.
17. The Applicant is simply pursuing its rights through the available legal mechanisms and it cannot be faulted. Under the fair administrative front under Article 47 of *the Constitution* all that matter is claims are settled with due dispatch. All that matter is that there is a legitimate claim.
18. It does not matter whether the claim is that of a substantial amount or not. The Respondent is at all times under a duty to act promptly and efficiently, without unnecessary delay. The Respondent has failed to act within the fair administrative action threshold in delaying to settle the claim and I do hold.

**Order:**

1. Therefore, taking into account the foregoing the order that commends itself is that an Order of mandamus be and is hereby issued to compel the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to pay the Exparte Applicant Kshs 4,071,535.00 under the Certificate of Taxation dated 17<sup>th</sup> April, 2024.
2. The costs of this application be borne by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY MARCH OF 2025**

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**J. CHIGITI (SC)**

**JUDGE**

