



Republic v Nairobi Metropolitan Services (NMS) & 5 others; Metro Trans EA Limited (Interested Party); Kaka Travellers Cooperative Savings and Credit Society Limited (Exparte Applicant); Omurwa (Contemnor) (Judicial Review Application E131 of 2022) [2025] KEHC 4181 (KLR) (Judicial Review) (2 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4181 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW APPLICATION E131 OF 2022**

**RE ABURILI, J
APRIL 2, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

NAIROBI METROPOLITAN SERVICES (NMS) 1ST RESPONDENT

**THE DIRECTOR ROADS, PUBLIC WORKS TRANSPORT,
NMS 2ND RESPONDENT**

THE DIRECTOR OF ENFORCEMENT, NMS 3RD RESPONDENT

THE INSPECTOR GENERAL OF POLICE 4TH RESPONDENT

THE DTO CENTRAL POLICE STATION 5TH RESPONDENT

THE HON ATTORNEY GENERAL 6TH RESPONDENT

AND

METRO TRANS EA LIMITED INTERESTED PARTY

AND

**KAKA TRAVELLERS COOPERATIVE SAVINGS AND CREDIT SOCIETY
LIMITED EXPARTE APPLICANT**

AND

ROSANA OSCAR OMURWA CONTEMNOR



RULING

1. This matter is due for hearing of the application dated 11/3/2024, by way of highlighting of the applicant's written submissions.
2. Apparently, when the court gave directions for the hearing today, the ex parte applicant's Counsel was not present in court on 3/3/2025. Mr. Kinyanjui also joined the online platform when Mr. Tugee for the Applicant on the application was already making the highlights.
3. I observe that the ex parte applicant did not file any response to the application and that the Hon. Justice Chigiti did recuse himself from hearing the matter, after giving directions in the matter, on account of conflict of interest.
4. There are contempt proceedings which the applicant is seeking to set aside while the benefactor of the said contempt orders is opposed to the application to set aside those proceedings but no response was filed.
5. Counsel, Mr. Kinyanjui has however requested for 7 days to respond to the application in writing as initially, he was verbally objecting to the application being heard before the conclusion of the contempt proceedings.
6. The applicant's Counsel opposes the request for extension of time to file a response on account that the ex parte applicant was given a timeline which was not met. Mr. Ndegwa supports the position taken by Mr. Tugee, Counsel for the applicant in the application.
7. I have considered arguments by all Counsel, for and in favour of an adjournment to allow the ex parte applicant to file a response to the application seeking to set aside contempt proceedings/orders
8. The ex parte applicant seeks the court's discretion which must be exercised judiciously bearing in mind that delayed justice is denied justice. However, all the parties have been waiting to be heard by the court and had Chigiti J SC not recused himself from this case, the matter would have been resolved by now, one way or the other.
9. In my view, now that the ex parte applicant is desirous of being heard in opposition to the application dated 11/3/2024 and so as to save judicial time of hearing an application upon application, and to accord the ex parte applicant, the initiator of these proceedings the opportunity to be heard, and as the prejudice if any can be compensated by costs.
10. I hereby exercise discretion and grant the ex parte applicant the requested 7 days of today to file and serve a replying affidavit together with written submissions upon which the applicant shall have 7 days of date of service to file and serve a further affidavit if need be, together with supplementary submissions. Parties shall then appear for highlighting of their submissions in the new term on 14/5/2025.
11. The applicant in the application dated 11/3/2025 shall have costs for today in any event, and the ex parte applicant shall pay court adjournment fees of Kshs. 4000/- before the next hearing date as it has come in late to cause the adjournment.
12. I so order.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 2ND DAY OF APRIL, 2025

R.E. ABURILI



JUDGE

