



Shabure v Kenya Airports Authority & another (Judicial Review Miscellaneous Application E038 of 2025) [2025] KEHC 4162 (KLR) (Judicial Review) (1 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4162 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E038 OF 2025
RE ABURILI, J
APRIL 1, 2025**

BETWEEN

ALINOOR HAJI SHABURE APPLICANT

AND

KENYA AIRPORTS AUTHORITY 1ST RESPONDENT

**THE GENERAL MANAGER FINANCE, KENYA AIRPORTS
AUTHORITY 2ND RESPONDENT**

RULING

1. The Chamber Summons dated 29/3/2025 seeks leave of this court to apply for an order of mandamus to enforce the decree by Hon. L.K. Mutai Chief Magistrate against the Kenya Airports Authority in Isiolo CM ELC No.12 of 2018 between Alinoor Haji Shabure vs Kenya Airports Authority & Isiolo County Government.
2. The applicant Alinoor Haji Shabure also seeks leave to issue to apply for mandamus order directed at the 1st Respondent Kenya Airports Authority to compel it to honor the courts' decree and certificate of costs in Isiolo MC ELC No. 12/2018 and to pay the exparte applicant Kshs. 9,153,124 together with interest at the rate of 12% until payment in full.
3. The claim arose from the 1st Respondent's acquisition of the exparte applicant's property namely, land but failed to compensate the applicant as required under Article 40 of *the Constitution*. The applicant filed suit before the Environment and Land Court at ELC Isiolo and 24/5/2023, judgment was entered against the 1st Respondent in the sum of Kshs.9,153,124, which the 1st Respondent has allegedly refused and failed to settle.



4. I need not delve into the statutory statement or verifying affidavit; as the grounds in support of the application are sufficient for this court to determine whether it should grant leave to apply or not.
5. For the court to make any orders in this matter, it must be sure that it is vested with jurisdiction to do so. Does this court have jurisdiction to hear and determine this matter on merit and therefore grant leave and move to the next stage?
6. It is trite law that jurisdiction is everything without which a court of law must not do any one more thing. It must down its tools. Jurisdiction is conferred by the Constitution and by statute. Parties cannot confer jurisdiction on the court by consent and nether can the court arrogate itself of jurisdiction that it does not possess.
7. In this case, it is clear that the decree sought to be enforced is an ELC Decree. Article 165(5) (b) of the Constitution expressly bars the High Court from hearing and determining disputes which are exclusively reserved for the Supreme Court and the courts contemplated and established under Article 162(2) of the Constitution. The two courts established under Article 162(2) of the Constitution are the Employment and Labour Relations Court and the Environment and Land Court.
8. In this case, the decree is from the Environment and Land Court. Section 13 of the Environment and Land Court Act No. 12 2012 provides for jurisdiction of the Court and among the orders that the ELC can make and reliefs that it can grant are: 13(5) – Prerogative Orders.
9. Judicial Review Orders of mandamus are prerogative orders.
10. Further, on enforcement of the decrees of the court, Section 14 of the Environment and Land Court Act provides that a judgment, award, order or decree of the court shall be enforceable in accordance with the Civil Procedure Act Cap 21.
11. What that means is that a decree of the courts as established under Article 162(2) of the Constitution cannot be exported to the High Court for enforcement, as has been sought herein.
12. The Environment and Land Court Act provides for the avenue for enforcement mechanisms and the procedure is as set out in the Civil Procedure Act and Rules made thereunder. It follows that this court is devoid of jurisdiction to enforce decree of the Environment and Land Court.
13. Accordingly, for want of jurisdiction, I down my tools and I decline to entertain the merits of the chamber summons dated 29/3/2025 which is hereby not certified urgent. The said application is hereby struck out with no orders as to costs.
14. The Ruling to be typed and uploaded and served upon the exparte applicant’s Counsel forthwith. This file is closed. I so order.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 1ST DAY OF APRIL, 2025

R.E. ABURILI

JUDGE

