



**Muchene v Attorney General (Judicial Review Application E158 of 2025)  
[2025] KEHC 8356 (KLR) (Judicial Review) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8356 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW APPLICATION E158 OF 2025  
RE ABURILI, J  
JUNE 16, 2025**

**BETWEEN**

**SUSAN MUCHENE ..... APPLICANT**

**AND**

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

**RULING**

1. The application dated 10/6/2025 is not certified urgent as it merely seeks leave of court to apply for mandamus order to compel the Respondent to settle a money decree in CMCC 418/2011 as per the judgment of Mbeja D.O, Hon. Principal Magistrate dated 29/10/2021.
2. The applicant has annexed copy of judgment, decree of 14/3/2021, certificate of order against the Government dated 4/6/2025 and Notice of Intention to sue dated 31/11/2023.
3. However, there is no evidence that the certificate of order against the Government which is dated 4/6/2025, issued less than 21 days ago, has been served upon the Respondent with a demand for settlement as mandated under Section 21(1) of the *Government Proceedings Act*. The section provides as follows in mandatory terms:

21. Satisfaction of orders against the Government

1. Where in any civil proceedings by or against the Government, or in proceedings in connection with any arbitration in which the Government is a party, any order (including an order for costs) is made by any court in favour of any person against the Government, or against a Government department, or against an officer of the Government as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-



one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

2. A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.

...

4. Courts have consistently held that compliance with Section 21 is a condition precedent to bringing enforcement proceedings such as a judicial review application for mandamus. This includes obtaining a certificate of order against the Government; serving it upon the Attorney General and/or relevant accounting officer; allowing the 21-day statutory window to lapse before approaching the court.
5. Without the certificate of order and proof of service, the court cannot grant leave that would culminate in the issuance of an order of mandamus. The 21-day period is to allow the Government to comply voluntarily before coercive processes are triggered.
6. On that ground alone, the application for leave to apply is found to be premature and is hereby struck out with no orders as to costs.
7. The applicant must comply with Section 21 of the *Government Proceedings Act*, Cap 40 Laws of Kenya.
8. This file is closed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 16<sup>TH</sup> DAY OF JUNE, 2025**

**R.E. ABURILI**

**JUDGE**

