



**Republic v County Secretary, County Government of Kisumu & 2 others;  
 Otieno, Ragot & Co Advocates (Ex parte Applicant) (Judicial Review  
 E010 of 2024) [2025] KEHC 10571 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10571 (KLR)

**REPUBLIC OF KENYA  
 IN THE HIGH COURT AT KISUMU  
 JUDICIAL REVIEW E010 OF 2024  
 A MABEYA, J  
 JULY 21, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE COUNTY SECRETARY, COUNTY GOVERNMENT OF  
 KISUMU ..... 1<sup>ST</sup> RESPONDENT**

**THE COUNTY EXECUTIVE MEMBER FOR FINANCE, COUNTY  
 GOVERNMENT OF KISUMU ..... 2<sup>ND</sup> RESPONDENT**

**THE COUNTY GOVERNMENT OF KISUMU ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**OTIENO, RAGOT & CO ADVOCATES ..... EX PARTE APPLICANT**

**RULING**

1. Otieno, Ragot & Co. Advocates is a firm of Advocates practicing in Kisumu. Sometimes back it was retained by the County Government of Kisumu for legal services. The said firm prepared a bill of costs dated 8/7/2020 which was taxed at Kshs.81,809.94 on 2/8/2021.
2. A Certificate of Costs for Kshs.81,809.94 was issued on 2/8/2021 which was subsequently adopted as a judgment of the Court on 9/12/2021. The same was to attract interest at 14% per annum from 2/4/2015 until payment in full. A Certificate against Government under section 21 of the Government Proceedings Act, was issued on 27/2/2024. Despite then, it was not settled.



3. On 23/4/2024, the said firm took out Judicial Review proceedings whereby this Court (Aburili J) issued an order of Mandamus on 5/12/2024. That order was in the following terms: -

“That an Order of Judicial Review by way of Mandamus is hereby issued, compelling the County Secretary, and the County Executive Committee Member for Finance, both of the County Government of Kisumu to pay to the Ex Applicant the sum of Kshs.81,809.94 (Kenya Shillings Eighty one Thousand, Eight Hundred and Nine, and Ninety Four cents) together with interest at court rates of 14% per annum from 2/4/2015 until payment in full, in accordance with the decree and certified costs awarded to the Ex parte Applicant in Kisumu HC Misc. Civil Application No. E094 of 2021 between Otieno, Ragot & Company Advocates versus Municipal Council of Kisumu.”

4. By along letter dated 13/2/2025, the said Firm served the respondents with not only that order of Mandamus, but also explained at length the steps and agony it had undergone trying to recover the same from the respondents. Service was effected on the respondents who received the same on 17/2/2023. Despite that service and demand to comply, the respondents did not comply.
5. On 28/3/2025, the said Firm took out a Motion on Notice seeking to cite the respondents for contempt. They sought the following prayer: -

“That the Respondents herein, the County Secretary of the County Government of Kisumu City and the County Executive Committee Member for Finance, County Government of Kisumu City be held in contempt of court and be punished accordingly for continuing to disobey the order of Mandamus issued by this Honourable Court dated 5/12/2024 on account of their failure, neglect and or deliberate refusal to pay to the Ex parte Applicant the sum of Kenya Shillings Eighty One Thousand, Eight Hundred and Nine, and Ninety Four cents Only (Kshs.81,809.94) together with interest at courts rates of 14% per annum from 2/4/2015 until payment in full, arising from the decree and certified costs in Kisumu High Court Miscellaneous Civil Application No. E094 of 2021 between Otieno, Ragot & Co. Advocates vs County Government of Kisumu.”

6. The Motion was served but was not responded to. On 1/4/2025 and 26/5/2025, the respondents appeared in Court but never responded to the Motion. The Motion was therefore unopposed.
7. I have considered the record. I have considered all the orders on record. Judgment was entered way back on 9/12/2021. That is over 3 years ago. The Certificate of Costs against government was issued in February, 2024. The respondents have not paid the decretal sum or any part thereof. They have also not given any explanation why they have not paid the said amount.
8. Court orders are not suggestions. They are appropriate dictates for the maintenance of the rule of law. Under Article 10 of our *Constitution*, one of our National Values and Principles of Governance is the rule of law and accountability. Article 10(2) provides: -

“2. The National Values and principles of governance include: -

- a. patriotism, national unity, sharing and devolution of powers, the rule of law.....
- c. good governance, integrity, transparency and accountability; and  
....”



9. The essence of the rule of law is that all parties and institutions are subject to the law. No one is above the law. Obedience of Court orders is part of the rule of law. Disobedience of a Court order not only undermines the rule of law but it is in itself a breach of the Constitution and a preliquisite to the breakdown of law and order. It is a recipe for the law of the jungle and chaos and must not be condoned.
10. Accountability in Article 10(2) (c), presupposes one being answerable or responsible for own action and decisions. One has to acknowledge and be willing to explain or justify own actions. The 1<sup>st</sup> and 2<sup>nd</sup> respondent, owe the applicant an explanation. That amount demanded is debt that was properly incurred. The amount was ascertained in 2021, 5 years ago. Accountability requires that the respondents should have factored the same in the budget estimates in the years following the ascertainment. It requires that they should have explained to the applicants the status of payment, the reason for delayed payment and when it would be paid. This they have failed. This is impunity that cannot be condoned in a democratic society.
11. I think no litigant would resort to legal process if the end result of it is a paper judgment not worth the paper it is written on. That won't do! The rule of law must reign. Litigants must be assured that taking the law into their hands is not the route to take. Those who would want to propagate that route, such as the respondents in this case, must be dissuaded by all means possible.
12. The respondents have decided to ignore and outrightly refused to comply with the order of 5/12/2024. That is in breach of Article 10 of the Constitution. This Court will not encourage that. They are in contempt of that order.
13. Accordingly, I allow the application as prayed. The matter be listed for mitigation and sentence.  
It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 21<sup>ST</sup> DAY OF JULY, 2025.**

**A. MABEYA, FCI Arb**

**JUDGE**

