



**Republic v County Secretary, County Government of Kisumu & 2 others;
Otieno, Ragot & Co. Advocates (Exparte Applicant) (Judicial Review
E009 of 2024) [2024] KEHC 7540 (KLR) (14 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7540 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
JUDICIAL REVIEW E009 OF 2024
RE ABURILI, J
JUNE 14, 2024**

**IN THE MATTER OF AN APPLICATION BY OTIENO, RAGOT & COMPANY ADVOCATES
AND
IN THE MATTER OF AN APPLICATION FOR
JUDICIAL REVIEW BY WAY OF MANDAMUS
AND
IN THE MATTER OF SECTION 2, 103, 147 & 148 OF
THE PUBLIC FINANCE MANAGEMENT ACT, 2012
AND
IN THE MATTER OF SECTION 41 & 45 OF THE COUNTY GOVERNMENT ACT, 2012
AND
IN THE MATTER OF GOVERNMENT
PROCEEDINGS ACT, CHAPTER 40, LAWS OF KENYA
AND
IN THE MATTER OF ARTICLES 10, 23 & 47 OF THE CONSTITUTION OF KENYA**

BETWEEN

REPUBLIC APPLICANT

AND

**THE COUNTY SECRETARY, COUNTY GOVERNMENT OF
KISUMU 1ST RESPONDENT**

**THE COUNTY EXECUTIVE MEMBER FOR FINANCE, COUNTY
GOVERNMENT OF KISUMU 2ND RESPONDENT**



THE COUNTY GOVERNMENT OF KISUMU 3RD RESPONDENT

AND

OTIENO, RAGOT & CO. ADVOCATES EXPARTE APPLICANT

RULING

1. The Exparte Applicant Otieno, Ragot & Co. Advocates vide their Notice of Motion dated April 30, 2024 seek Judicial Review Order of *Mandamus* to compel the Respondents herein to settle decree in the sum of Kshs.156,060 with interest at court rates of 14% p.a from January 5, 2023 until payment in full being decree in Kisumu High Court Misc. Civil Application No. E020 of 2023.
2. The Applicant also prays for costs of the application.
3. The application which is supported by documents accompanying the application for leave to apply dated April 4, 2024 and affidavit of Jude Ragot sworn on April 4, 2024 is not opposed.
4. The Applicant is the advocate who filed Advocate/Client Bill of Costs which were taxed by the Deputy Registrar of this court.
5. No Reference was filed and neither is there any challenge as to retainer.
6. The decree is against the County Government and under the *Government Proceedings Act*, Cap 40 Laws of Kenya, no execution of decree by way of attachment and sale of property whether movable or immovable.
7. *Mandamus* is the only way by which the decree holder can compel settlement of decree passed by the court as stipulated in Section 21 of the *Government Proceedings Act* and Order 29 Rule 2 of the *Civil Procedure Rules*.
8. The Certificate of Order against the Government was issued on February 2, 2024 in HC Misc. No. E020 of 2023. Decree was issued on December 13, 2023.
9. The professional services were rendered in Kisumu HCCC No. 5 of 2014.
10. The Applicant served the Respondent/Client with the itemized bill on December 5, 2022 as per the affidavit of service filed into court.
11. There has been no settlement of the said costs.
12. That being the case, I find merit in the Notice of Motion dated April 30, 2024. I grant the prayer for *Mandamus* as prayed.
13. The Applicant shall have costs of the application assessed at Kshs.20,000.
14. Mention on September 26, 2024 to confirm settlement.
15. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 14TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

