



**Republic v Kisumu County Government & 3 others; Trishul Chohan
t/a Auto Extreme (Exparte) (Miscellaneous Civil Application
E334 of 2024) [2024] KEHC 11151 (KLR) (23 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11151 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E334 OF 2024
RE ABURILI, J
SEPTEMBER 23, 2024**

**IN THE MATTER OF AN APPLICATION BY TRISHUL CHOCHAN T/
A AUTO EXTREME FOR A JUDICIAL REVIEW ORDER OF MANDAMUS**

AND

**IN THE MATTER OF THE COUNTY GOVERNMENT
ACT NO. 3 OF 2012 OF THE LAWS OF KENYA**

AND

IN THE MATTER OF KISUMU HIGH COURT CIVIL SUIT NO 13 OF 2019

BETWEEN

REPUBLIC APPLICANT

AND

KISUMU COUNTY GOVERNMENT 1ST RESPONDENT

**THE COUNTY SECRETARY KISUMU COUNTY GOVERNMENT 2ND
RESPONDENT**

**THE COUNTY EXECUTIVE COMMITTEE MEMBER FINANCE AND
PLANNING KISUMU COUNTY GOVERNMENT 3RD RESPONDENT**

**THE COUNTY CHIEF OFFICER, FINANCE KISUMU COUNTY
GOVERNMENT 4TH RESPONDENT**

AND

TRISHUL CHOCHAN T/A AUTO EXTREME EXPARTE



RULING

1. I have perused the application dated 19th September 2024 under Certificate of Urgency. I do not find any urgency involved. I decline to certify the application as urgent.
2. I however observe that the Applicant seeks leave of this court to apply for Judicial Review Orders of Mandamus to compel the 1st Respondent to settle decree in Kisumu HCCC No. 13 of 2019, dated 17th November 2021 and certificate of order of costs dated 4th June 2024.
3. I have perused copy of Judgment and Certificate of Costs annexed. There is no evidence of the decree and or certificate of order against the Government having been issued and served upon the Respondents as stipulated in Section 21 of the Government Proceedings Act as read with Order 29 Rule 3 of the *Civil Procedure Rules*. See the case of *Five Star Agencies Ltd v National Land Commission & Another* CA No. E390 of 2023 (Court of Appeal) which restated the law and held that before filing Judicial Review application seeking satisfaction of decree against the Government, the party must obtain a certificate of order and certificate for costs against the Government and issuing a 21 days' notice upon the Government.
4. In this case, the applicant has only annexed copy of Judgment and certificate of costs as taxed. There is no decree and certificate of order against the Government.
5. Accordingly, I find that the application dated 19th September 2024 is premature. It is hereby struck out.
6. The Applicant may file a fresh application upon complying with the requirements under Section 21 of the Government Proceedings Act.
7. I make no orders as to costs.
8. This file is closed.
9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 23RD DAY OF SEPTEMBER, 2024

R. E. ABURILI

JUDGE

