



**Otieno, Ragot & Co Advocates v County Executive Member for
Finance County Government of Kisumu (Judicial Review Application
24 of 2023) [2023] KEHC 22617 (KLR) (25 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22617 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
JUDICIAL REVIEW APPLICATION 24 OF 2023
RE ABURILI, J
SEPTEMBER 25, 2023
IN THE MATTER OF AN APPLICATION BY OTIENO RAGOT & CO.
ADVOCATES
AND
IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR
JUDICIAL REVIEW BY WAY OF MANDAMUS
AND
IN THE MATTER OF SECTIONS 2, 103, 147 & 148 OF THE PUBLIC
FINANCE MANAGEMENT ACT, 2012
AND
IN THE MATTER OF SECTIONS 44 & 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 & 41 OF THE CONSTITUTION
OF KENYA
BETWEEN
OTIENO, RAGOT & CO ADVOCATES APPLICANT
AND



**THE COUNTY EXECUTIVE MEMBER FOR FINANCE COUNTY
GOVERNMENT OF KISUMU RESPONDENT**

RULING

1. The applicants filed this matter but they have never served the Respondents with the same and they did not appear on September 19, 2023 despite the matter being fixed for mention on September 19, 2023 and service upon them by email on June 26, 2023.
2. The applicants appear not interested in this matter as they have allegedly never served the Respondents with the pleadings, according to the Respondents' counsel. However, the affidavit of service filed in court sworn on May 20, 2023 by James Otieno Okudo shows that the Respondents were served with the pleadings on May 12, 2023 and they acknowledged by stamping on the Chamber Summons dated May 3, 2023.
3. Ordinarily, such applications are heard *ex parte* in chambers. This matter is similar to JR 23 of 2023. The Applicant seeks for leave to apply for Judicial Review orders of Mandamus to compel the Respondents to settle decree in Kisumu HC Misc No 343 of 2015 being Advocate/Client taxed costs.
4. I find no reason to adjourn this application as the application is a procedural step toward recovery of costs against the County Government of Kisumu in accordance with the provisions of the *Government Proceedings Act*, Cap 40, Laws of Kenya.
5. Accordingly, I grant leave to the *Ex parte* Applicant in terms of prayer No 1 of the Chamber summons dated May 3, 2023 and order that the substantive motion be filed and served within 21 days of today in a separate file.
6. Each party to bear their own costs of the chamber summons.
7. This file is hereby closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF SEPTEMBER, 2023.

R. E. ABURILI

JUDGE

