



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**JUDICIAL REVIEW APPLICATION NO. 98 OF 2020**

**IN THE MATTER OF AN APPLICATION FOR LEAVE**

**FOR JUDICIAL REVIEW ORDERS OF MANDAMUS**

**BETWEEN**

**WAYRREN ENTERPRISES LIMITED.....APPLICANT**

**VERSUS**

**THE COUNTY SECRETARY, NAIROBI CITY COUNTY.....1<sup>ST</sup> RESPONDENT**

**THE CHIEF OFFICER/COUNTY TREASURES, NAIROBI CITY COUNTY...1<sup>ST</sup> RESPONDENT**

**RULING**

1. The Applicant herein moved this Court in an application brought by way of Chamber Summons dated 12<sup>th</sup> May 2020, wherein he is seeking orders that the application be certified urgent and be heard ex parte in the first instance, and for leave to apply for an order of mandamus to compel the Respondents to satisfy the Certificate of Order in Milimani CMCC No. 5591 of 2018 together with interest thereon at the rate of 25% per annum from 13<sup>th</sup> September 2013 until payment in full. The Applicant also sought an order that the costs of the application be provided for.

2. The said application is supported by a statement dated 12<sup>th</sup> May 2020, and a verifying affidavit and supplementary affidavit sworn on the same date by Berline Adhiambo, the Applicant's Managing Director.

3. The main ground for the application is that the Applicant has a Certificate of Order against the Respondents which they are not willing to satisfy, and which remains unsatisfied since 28<sup>th</sup> January 2020.

4. The Applicant annexed copies of the pleadings filed in Milimani CMCC No. 5591 of 2018, and a Certificate of Order against the Government issued therein on 28<sup>th</sup> January 2020. The Applicant has averred in its supporting affidavits that the matter in Milimani CMCC No. 5591 of 2018 went to full trial, and judgment was delivered therein in its favor on 26<sup>th</sup> April 2019. However, the Applicant has not annexed a copy of the said judgment, which is the main fact that gives rise to the Certificate of Order against the Government and orders of mandamus sought. In the circumstances I am unable to grant leave at this stage as the Applicant has not shown an arguable case.

5. In the premises I direct and orders as follows:

**i. The Applicant is granted leave to file a supplementary affidavit annexing a certified copy of the judgment delivered on 26<sup>th</sup> April 2019 in Milimani CMCC No. 5591 of 2018, within thirty (30) days of today's date.**

**ii. The Applicant shall serve the Respondents with (i) the Chamber Summons dated 12<sup>th</sup> May 2020 and its supporting documents, (ii) its supplementary affidavit, (iii) skeletal submissions on the Chamber Summons dated 12<sup>th</sup> May 2020, (iv) a copy of these directions and (v) a hearing notice with the said thirty (30) days .**

**iii. The Respondents are granted leave to file and serve their response to the Chamber Summons dated 12<sup>th</sup> May 2020 and skeletal submissions thereon within thirty (30) days of service by the Applicant as directed herein.**

iv. The Chamber Summons dated 12<sup>th</sup> May 2020 shall be heard on 13<sup>th</sup> July 2020.

v. In view of the Ministry of Health directives on the safeguards to be observed to stem the spread of the current COVID-19 pandemic, this Court shall hear and determine the Applicant's Chamber Summons dated 12<sup>th</sup> May 2020 on the basis of the electronic copies of the pleadings and the written submissions filed by the parties. In this respect, the Applicant shall avail an electronic copy in word format of the said Chamber Summons without the annexures within thirty (30) days of today's date.

vi. The parties shall file and avail their pleadings, applications and written submissions electronically, by sending them to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

vii. The electronic copies of pleadings and documents sent by the parties shall be clearly and correctly titled to indicate the J.R Case Number, the name of the Party sending it (that is whether the *Ex Parte* Applicant, Respondent or Interested Party), and the nature of the pleading or document.

viii. The service of pleadings and documents directed by the Court shall be by way of personal service and electronic mail, and in the case of service by way of electronic mail, the parties shall also email a copy of the documents so served to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

ix. The parties shall also be required to send the respective affidavits of service by way of electronic mail to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

x. The Deputy Registrar of the Judicial Review Division shall send a copy of this ruling and the extracted orders to the Applicant by electronic mail by close of business on Thursday, 14<sup>th</sup> May 2020.

xi. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for hearing on 13<sup>th</sup> July 2020, and bring it to the attention of a Judge in the Division on that date for directions.

xii. Parties shall be at liberty to apply.

6. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 13<sup>TH</sup> DAY OF MAY 2020

P. NYAMWEYA

JUDGE