



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**JUDICIAL REVIEW**

**MISC. APPLICATION NO. 357 OF 2016**

**IN THE MATTER OF AN APPLICATION BY GEORGE KAMANDE NDUNGU FOR LEAVE  
TO APPLY FOR AN ORDER OF MANDAMUS**

**IN THE MATTER OF THE CHIEF MAGISTRATE'S COURT CIVIL SUIT NO. 1945 OF 2013**

**AND**

**IN THE MATTER OF SECTION 59 OF THE URBAN AREAS AND CITIES ACT NO. 13 OF  
2011 AND SECTION 44(1) AND 45(4) OF THE COUNTY GOVERNMENT ACT NO. 17 OF  
2012 AND ALL OTHER ENABLING PROVISIONS OF THE LAW**

**BETWEEN**

**GEORGE KAMANDE NDUNGU.....  
.....APPLICANT**

**VERSUS**

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

**CHIEF OFFICER, FINANCE/COUNTY TREASURER NAIROBI CITY COUNTY...2<sup>ND</sup>  
RESPONDENT**

**JUDGMENT**

1. The application dated 21<sup>st</sup> October 2016 seeks for Judicial Review orders of mandamus against the respondent County Secretary and Chief Officer Finance, & County Treasurer, Nairobi City County to compel payment of shs 1,040695.10 being decretal sum in CMCC 1945/2013 together with interest at 12% per annum and further interest at 14% per annum from 1<sup>st</sup> August 2016 until payment in full and that in default, notice to show cause to issue against the respondents why they should not be cited for contempt. Costs are also sought.
2. The application which is unopposed is supported by the statutory statement in support of leave and verifying affidavit of the applicant George Kamande Ndungu sworn on 8<sup>th</sup> August 2016.
3. I have considered the application. It is not in dispute that there is decree in CMCC 1945/2013 which the respondents did acknowledge but which they have defaulted to settle. The only way to compel them to settle is by way of mandamus as the City County Government falls within the provisions of the Government Proceedings Act Cap 40 Laws of Kenya and execution cannot issue against them.
4. Accordingly, I grant Judicial Review order of mandamus prayed for in prayer No. 1 of the notice of motion compelling the respondents to settle the decretal sum in CMCC 1945/2013 together with interest as decreed and as per prayer No. 2 of the application within the next 60 days from todate. In

default, contempt proceedings to be initiated as appropriate. Costs to the applicant. I decline to grant prayer No. 4 of the motion as it is a consequence of disobedience of the order of mandamus.

**Dated, signed and delivered in open court at Nairobi this 1st day of March 2017.**

**R.E. ABURILI**

**JUDGE**