



**Muchene v Attorney General (Judicial Review Application
E158 of 2025) [2025] KEHC 13526 (KLR) (29 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13526 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW APPLICATION E158 OF 2025
RE ABURILI, J
SEPTEMBER 29, 2025**

BETWEEN

SUSAN MUCHENE APPLICANT

AND

THE ATTORNEY GENERAL RESPONDENT

RULING

1. The applicant has filed Notice of Motion dated 24/9/2025 seeking leave to file judicial Review application seeking for mandamus to compel the Respondent to settle decree in Milimani CMCC 3538/2013 dated 29/10/2021.
2. Ordinarily, the application should be by way of chamber summons as dictated by order 53 of the Civil Procedure Rules. On 16/6/2025, this court vide JR E158/2025 declined to grant leave to apply as the application dated 10/6/2025 was premature and non-compliant with Section 21 of the [Government Proceedings Act](#).
3. I have perused the application and the accompanying documents among them, verifying affidavit and statutory statement. I have also perused the annextures.
4. From the judgment and decree in Milimani Commercial Civil Suit No. 3538/2013, it is clear that although the suit was filed against the Attorney General on behalf of the Government of Kenya, the cause of action arose from a road traffic accident on 28/9/2010 involving the Applicant/Plaintiff and a Kenya Army Commanders' pool vehicle driven by Charles Kanyiri.
5. It follows that the motor vehicle did not belong to the Attorney General. It is therefore expected that as stipulated in Section 21 of the [Government Proceedings Act](#), the application for leave to apply for mandamus enjoins the accounting officer of the relevant Government Department whom this court can compel to perform a public duty of settling decrees.



6. The Attorney General is not an accounting officer for the Ministry of Defence. It will be in vain for this court to grant leave to allow mandamus to issue compelling an irrelevant party noting that the Attorney General is under no legal duty to settle the subject decree.
7. For the above reasons, and as the applicant has only cited the Attorney General as the party against whom mandamus would be sought, I find the application being fatally defective and incompetent and the same is hereby struck out with no orders as to costs.
8. This file is closed. The applicant's Counsel be informed.
9. I so order.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF SEPTEMBER, 2025

R. E. ABURILI

JUDGE

