



Republic v Attorney General; Ogutu & 222 others (Ex parte Applicants) (Employment and Labour Relations Judicial Review E035 of 2024) [2025] KEELRC 2750 (KLR) (9 October 2025) (Judgment)

Neutral citation: [2025] KEELRC 2750 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS JUDICIAL REVIEW E035 OF 2024
MN NDUMA, J
OCTOBER 9, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

THE HON. ATTORNEY GENERAL RESPONDENT

AND

CALVIN OKEYO OGUTU & 222 OTHERS EX PARTE APPLICANT

JUDGMENT

1. The Exparte Applicant in the application dated 15/10/2024 seeks orders of mandamus against the Respondent to compel the Hon. Attorney General to pay Kshs. 7,933,827,426.36 inclusive of costs and interest at court rates being @ 12% and @ 14% from June 2020 from the date of the award to the date of payment in full, the sum being the decretal sum on account of the judgment in Milimani ELRC No. 2212 of 2012.
2. That since judgment was entered, the Respondent has been aware of the said judgment and decree but has neglected, ignored and or refused to pay the decretal sum to the many Claimants.
3. That the Respondent has flagrantly disobeyed the court order and has engaged in a game of musical chairs in the guise of attempting to effect payment of the decretal sum.
4. That the Appeal preferred against the judgment/decree before the Court of Appeal in Nairobi Civil Appeal No. E093 of 2021 was dismissed on 24th November 2023. That the Respondent, by its continuous disobedience continues to undermine the rule of law and the authority of the court system in Kenya to the loss and detriment of the many Claimants who continue to languish in poverty and want and others have died as they await the fruits of their judgment.



5. That the Respondent is a public officer who must be held at a higher standard by virtue of the office she holds and is not only in contempt of the court but has totally absconded her duties to maintain public confidence in the government office and the legal system generally.

That the petitioners be granted the relief sought.

6. Respondent filed a replying affidavit dated 5th March 2025 sworn to by the Principal Secretary Ministry of Defence, Patrick Mariru who deposes that the Ministry of Defence has pending decrees amounting to over ksh Ten Billion (10,000,000,000) whose immediate payments would completely paralyze its operations. That the ministry can only be accountable for what the National Assembly has made allocation for against a budget presented and approved by the National Assembly and liability to be defrayed by the Respondent must be provided for in the Government compensation estimates.

7. That despite the financial constraints barring the Respondent from settling the decree herein, the Ministry of Defence has not received any exchequer disbursements to settle the decree herein.

8. Upon a careful consideration of the deposition and submissions filed in this matter the court finds therefore the Applicant has proved that the government is in willful disregard and contempt of the judgment and decree of this court and the Court of Appeal set out in this matter and in the process has embarrassed the office of the Respondent in discharge of its duties.

Accordingly, the court grants the following order:-

- a. An order of mandamus compelling the Attorney General, the Respondent herein to pay the exparte Applicants a sum of Kshs. 7,933,827,426.36 inclusive of costs and interests at court rates from the date of the award to the date of payment in full, the sum being the decretal sum arising out of Milimani Employment and Labour Relations Cause No. 2212 of 2012 Samuel Chege Gitau and 283 others versus the Attorney General.
- b. The costs of the application are granted.

DATED AT NAIROBI THIS 9TH DAY OF OCTOBER 2025.

MATHEWS NDUMA

JUDGE

Appearance:

Agina & Associates Advocates for the Exparte Applicants

Hon. Attorney General - Respondent

Mr. Kemboi – Court Assistant

