



**Muthegu v Chief Officer, Finance, Nairobi City County Government  
& 2 others (Judicial Review Miscellaneous Application E130 of 2025)  
[2025] KEHC 14843 (KLR) (Judicial Review) (22 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14843 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E130 OF 2025  
RE ABURILI, J  
OCTOBER 22, 2025**

**BETWEEN**

**GEORGE KIHURA MUTHEGU ..... APPLICANT**

**AND**

**CHIEF OFFICER, FINANCE, NAIROBI CITY COUNTY  
GOVERNMENT ..... 1<sup>ST</sup> RESPONDENT**

**NAIROBI CITY COUNTY GOVERNMENT ..... 2<sup>ND</sup> RESPONDENT**

**ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The chamber summons dated 19<sup>th</sup> September 2025 and filed in court on 21/10/2025 under certificate of urgency seeks leave of court to apply for Judicial Review orders of mandamus to compel the Respondents to satisfy decree and certificate of order against the Government issued in Milimani CMCC 1380/2022 in favour of the applicant.
2. The application is supported by a verifying affidavit sworn by George Kihura Muthegu the applicant, on 19/9/2025, the statutory statement and annexures thereto.
3. Although the application is brought under certificate of urgency, I do not find any urgency involved since judgment was rendered on 12/6/2025 by Hon. L, Mbacho, Senior Resident Magistrate. I therefore do not certify it as urgent.
4. On the question of whether I should grant leave to apply for mandamus, the applicant must essentially satisfy the conditions set out in Section 21 of the *Government Proceedings Act*, to warrant leave of court to apply for mandamus. The section provides as follows:



21. Satisfaction of orders against the Government

- (1) Where in any civil proceedings by or against the Government, or in proceedings in connection with any arbitration in which the Government is a party, any order (including an order for costs) is made by any court in favour of any person against the Government, or against a Government department, or against an officer of the Government as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

- (2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.
- (3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the Accounting Officer for the Government department concerned shall, subject as hereinafter provided, pay to the person entitled or to his advocate the amount appearing by the certificate to be due to him together with interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such direction to be inserted therein.

- (4) Save as aforesaid, no execution or attachment or process in the nature thereof shall be issued out of any such court for enforcing payment by the Government of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Government, or any Government department, or any officer of the Government as such, of any money or costs.
- (5) This section shall, with necessary modifications, apply to any civil proceedings by or against a county government, or in any proceedings in connection with any arbitration in which a county government is a party.

5. Payment or settlement of a Decree against the Government including the County Government is predicated on a certificate of order against the Government being issued by the court issuing the decree, after expiry of 21 days from the date of the decision or judgment, and which should be served upon the Attorney General (in the case of decrees against the National Government) and County Attorney in the case of decrees against County Governments.
6. The Certificate of Order can only issue upon expiry of twenty-one (21) days of the date of such judgment or where costs are awarded and taxed later, a separate certificate of order for costs can issue.
7. There must also be demand for settlement before a decree holder can approach this court seeking for leave to apply for mandamus.



8. The procedure under the law enables the County Attorney in the case of County Governments, time to advise the relevant designated accounting officer to make arrangements to settle decree since there is never any money readily available on the spot, in Government, for settlement of decrees at once, together with costs and interest, in as much as the requirements for settlement of certificate of order is not conditional upon budgetary allocation.
9. In this case, judgment was rendered on 12/6/2025 for Kshs. 1,205,100 plus interest from the date of judgment and costs of the suit. Demand for settlement was made on the same day seeking for payment of the judgment sum and costs tabulated by Counsel for the applicant all totaling Kshs.1,393,700. There is a decree and certificate of stated costs both dated 12<sup>th</sup> June 2025 and issued on 11/8/2025. As at the time of such demand for settlement, there was no certificate of order against the government capable of being acted upon.
10. It is not legally possible that on the same date that judgment was rendered, costs were assessed and awarded at Kshs.269,200 as per the decree dated 12/6/2025 as contained in the certificate of order against the Government dated 12/6/2025 and issued on 11/8/2025. The certificate of order against the government having been issued on 11<sup>th</sup> August 2025, it is expected that it would then be served upon the respondents with a demand for settlement. There is no evidence that a demand was made for settlement of the decree in accordance with the certificate of order against the government. There is a whole difference between service of a certificate of order and demand for settlement, prior to the filing of these proceedings.
11. There is also no evidence that costs of the suit were assessed and awarded to the Plaintiff/Applicant and it would therefore be erroneous for this court to accept such a decree and certificate of order against the Government as being a good decree duly served upon the Respondents in compliance with section 21 of the [Government Proceedings Act](#), prior to the institution of these proceedings.
12. The verifying affidavit and statement of facts do not disclose when those costs which were merely tabulated on the judgment date and included in the award for damages were assessed or awarded by the trial court.
13. For the above reasons, I find that the certificate of order against the Government dated 12<sup>th</sup> June 2025 and issued on 11/8/2025 is materially defective and that there is no legitimate demand for settlement of decree that meets the legal requirements under Section 21 of the [Government Proceedings Act](#).
14. I therefore decline to grant leave to the applicant to apply for mandamus as sought and I proceed to strike out the chamber summons dated 19/9/2025 for being premature.
15. The applicant to follow the laid down procedure before filing a fresh application for consideration on its merit.
16. I make no orders as to costs.
17. This file is therefore closed. The Ruling to be uploaded to the Case Tracking System.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22<sup>ND</sup> DAY OF OCTOBER, 2025**

**R.E. ABURILI**

**JUDGE**

