



**Republic v County Government of Isiolo & 3 others; Muriuki & Mbogo t/  
a Mbogo & Muriuki Advocates (Ex parte Applicant) (Judicial Review Application  
E002 of 2025) [2025] KEELRC 3101 (KLR) (6 November 2025) (Judgment)**

Neutral citation: [2025] KEELRC 3101 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MERU  
JUDICIAL REVIEW APPLICATION E002 OF 2025**

**L NDOLO, J**

**NOVEMBER 6, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE COUNTY GOVERNMENT OF ISIOLO ..... 1<sup>ST</sup> RESPONDENT**

**THE COUNTY SECRETARY COUNTY GOVERNMENT OF  
ISIOLO ..... 2<sup>ND</sup> RESPONDENT**

**THE CHIEF OFFICER FINANCE, ICT AND ECONOMIC  
PLANNING ..... 3<sup>RD</sup> RESPONDENT**

**THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE, ICT  
AND ECONOMIC PLANNING ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**KEN MURIUKI & PETER KIRIMI MBOGO T/A MBOGO & MURIUKI  
ADVOCATES ..... EX PARTE APPLICANT**

**JUDGMENT**

1. By the Notice of Motion dated 2<sup>nd</sup> May 2025, the Ex Parte Applicant pursues an order of mandamus to compel the Respondents to forthwith and without delay, pay or cause to be paid Kshs. 24,304,693 together with costs and interest, to satisfy the decree issued in Meru ELRC Miscellaneous Application No E001 of 2025.
2. The Ex Parte Applicant further seeks a default order, to cite and commit the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents, to jail for a period of six months, for contempt of court.



3. The Motion is supported by an affidavit sworn by Ken Muriuki and is premised on the following grounds:
  - a. That the Applicant was instructed by the Respondents to defend them in Meru ELRC No E026 of 2021: *The Local Authorities Provident Fund Board v County Government of Isiolo & another*;
  - b. That on the conclusion of the said case, the Applicant filed their Bill of Costs in Meru Miscellaneous Application No 114 of 2024, which was taxed at Kshs. 24,304,693 and a certificate of costs issued on 17<sup>th</sup> January 2025;
  - c. That subsequently, the Applicant filed Meru ELRC Miscellaneous Application No E001 of 2025 to enforce the said certificate of costs, resulting in the issuance of a decree;
  - d. That the Respondents have refused to settle the said decree, despite exhortation and numerous demands to do so;
  - e. That execution of decrees against the Respondents is special in nature, and must be done via judicial review proceedings;
  - f. That a certificate of order has been issued;
  - g. That the decree, certificate of costs and certificate of order have been served on the Respondents;
  - h. That efforts to have the taxed costs settled have been futile and the sums remain due and owing.
4. The Respondents' response to the Motion is contained in a replying affidavit sworn by the County Secretary, Dade Boru on 10<sup>th</sup> July 2025.
5. Boru depones that for an order of mandamus to issue, a litigant must be accorded sufficient and reasonable time for compliance, unless there is outright refusal to pay.
6. He states that the present application is premature, for the reason that the Applicant has not fully exhausted the option of direct negotiations with the Respondents.
7. According to Boru an order of mandamus will only issue if there is no other remedy available to the Applicant. He adds that the application offends the statutory provisions of Section 9(2) and (3) of the *Fair Administrative Action Act* and Article 159 of *the Constitution* of Kenya, on exhaustion of alternative dispute resolution mechanisms.
8. It is deponed that the Applicant has not satisfactorily demonstrated that they have engaged the Respondents in constructive conversation on modalities of realisation of the fruits of the judgment, and satisfaction of the certificate of costs and the resultant decree.
9. The 1<sup>st</sup> Respondent contends that it is interested in laying this matter to rest, and asks for more time to comply with the Applicant's demands, noting that the demand requires budgetary allocation and subsequent requisition from the Controller of Budget, eventualities that may be beyond the 1<sup>st</sup> Respondent's control.
10. By the Application, the Applicant seeks to enforce judgment against the Respondents by way of judicial review. Order 53 Rule 1 of the Civil Procedure Rules provides as follows:
  1. No application for an order of mandamus, prohibition or certiorari shall be made unless leave therefor has been granted in accordance with this rule.



2. An application for such leave as aforesaid shall be made ex parte to a judge in Chambers, and shall be accompanied by-
    - a. a statement setting out the name and description of the applicant, the relief sought, and the grounds on which it is sought; and
    - b. affidavits verifying the facts and averment that there is no other cause pending, and that there have been no previous proceedings in any court between the applicant and the respondent, over the same subject matter and that the cause of action relates to the applicants named in the application.
  3. The judge may, where leave denotes stay, impose such terms as to costs and as to giving security as he thinks fit including cash deposit, bank guarantee or insurance bond from a reputable institution.
  4. The grant of leave under this rule to apply for an order of prohibition or an order of certiorari shall, if the Judge so directs, operate as a stay of the proceedings in question until the determination of the application, or until the judge orders otherwise:

Provided that where the circumstances so require, the judge may direct that the application be served for hearing inter partes before grant of leave. Provided further that where the circumstances so require the judge may direct that the question of leave and whether grant of leave shall operate as stay may be heard and determined separately within seven days.
11. It is also well settled in law that an application such as the one now before me, ought to be preceded by a certificate of order served on the defaulting government agency. In this regard, Section 21 of the [Government Proceedings Act](#) 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.
12. In *Republic v County Government of Vihiga Ex Parte Global Exhibitions Incorporated Ltd* [2021] eKLR it was held as follows:
- “A party wishing to realize the fruits of a judgment or decree against the Government must obtain a certificate of order against the Government. The Government pays against the certificate of order against it. It is a critical accounting instrument for the purpose of Government finances and accounts. The centrality of the certificate of order against Government, with respect to enforcement of money decrees against the Government, whether at the national or at the county level, has been the subject of pronouncement by the courts.”
13. The debt owed to the Ex Parte Applicant is not disputed. There is also evidence that a certificate of order was served on the Respondents. Further, the Applicant has demonstrated that the parties served have the capacity and statutory duty to settle the decretal sum.
  14. In their response to the application, the Respondents gave vague and unconvincing explanations as to why the debt has not been paid. Moreover, they did not offer any settlement plan.
  15. In the circumstances, an order of mandamus is hereby issued, compelling the Respondents to pay to the Ex Parte Applicant, the sum of Kshs. 24,304,693 together with accrued interest in satisfaction of the decree issued in Meru ELRC Miscellaneous Application No E001 of 2025.
  16. The Respondents will pay the costs of the Motion.
  17. Orders accordingly.

**DELIVERED VIRTUALLY THIS 6<sup>TH</sup> DAY NOVEMBER 2025**

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Muriuki for the Ex Parte Applicant

Mr. Muriithi for the Respondents

