

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION

JUDICIAL REVIEW APPLICATION NO E1101 OF 2020

NELSON MWENDA PAUL.....1ST
APPLICANT

FRANCIS MUTUKU KIMITI.....2ND APPLICANT

JACKLINE KARAMBU.....3RD APPLICANT

VERSUS

NATIONAL GOVERNMENT CONSTITUTENCIES

FUND BORAD.....1ST RESPONDENT

DEVELOPMENT FUND COMMITTEE FOR

KAMUKUNJI CONSTITUENCY.....2ND RESPONDENT

RULING ON NOTICE TO SHOW CAUSE

1. On 3rd February 2022, Ndung'u J rendered a judgment in this matter, dismissing the exparte applicant's substantive Notice of Motion dated 30th September, 2020, with costs.
2. The substantive Notice of Motion was filed pursuant to the leave of court granted on 16th September 2020 by P. Nyamweya J (as she then was) following the chamber summons dated 11/9/2020 for leave to apply.
3. The court in the Ruling on leave to apply ordered those costs would be in cause. The judgment by Ndungú J was never challenged by the exparte applicants who lost in their bid to challenge the decision of the Respondents decision of 3/2/2020 declining to appoint the exparte applicants to the NGCDF Committee for Kamukunji Constituency

following the judgment dismissing the exparte applicant's substantive Notice of Motion, the 1st Respondent filed party and party bill of costs dated 17/10/2022 which bill was taxed vide Ruling rendered on 23/3/2023 by Hon. Christine Asuna Okello, Deputy Registrar at Kshs. 675,450, also granting the exparte applicants 14 days to file a reference.

4. Thereafter, the decree holder filed Notice to Show Cause application dated 29/1/2025 and parties appeared before me on 11/3/2025 for hearing of the said Notice to Show Cause why the exparte applicants should not be arrested and committed to civil jail for non-settlement of the costs as assessed on 23/3/2023 which was two years later.
5. It is worth noting that previously, the 1st Respondent had applied for execution by way of attachment and sale of the exparte applicant's movable properties in 2023 but since no attachable properties of the exparte applicants could be traced for proclamation, the 1st Respondent sought for the alternative modes of execution.
6. On the 11/3/2025 when the 1st Respondent's Counsel Mr. Abidha argued the Notice to Show Cause application, Counsel for the exparte applicants' Ms. Shikali submitted that since judgment, their clients had changed their phone contacts and could not be reached. She sought more time to reach out to them.
7. This court issued a warrant of arrest against the exparte applicants, to be arrested and brought to court to Show Cause why they cannot be

committed to civil jail for non payment of costs awarded to the 1st Respondent. The Court also directed that the warrant of arrest be executed by the OCS of Kamukunji Police Station and fixed the matter for mention on 18/4/2025 for further directions.

8. On 8/4/2025, only Mr. Ondieki Counsel holding brief for Mr. Abidha was present and he sought for 7 days to enable the police execute the warrants of arrest against the exparte applicants. The court extended the warrants of arrest issued on 12/3/2025 until 13/5/2025.
9. On the latter date, again, only the 1st Respondent's Counsel was present and reported that the Judgment Debtors had not been arrested so he sought 7 more days and extension of the said warrants of arrest until 26/5/2025 which the court granted.
10. Subsequently on 26/5/2025, there was no arrest still and the Decree Holder's Counsel sought for amendment of the warrants to be redirected to the OCS Nairobi County Commander and the court granted the orders. Still no execution of the warrants of arrest as at 23/6/2025 & 14/7/2025.
11. The Decree Holder's counsel applied for Notice to Show Cause why the exparte applicant's salaries cannot be attached to satisfy the costs as taxed and served upon not only the Judgement Debtor's but also on their Advocates and employer, the City County Government of Nairobi, after obtaining their full employment details. The Notice to Show Cause was

pursuant to the provisions of order **22 Rule 42 of the Civil Procedure Rules.**

12. The matter of Notice to Show Cause then came up on 3/11/2025 and both parties' Counsel appeared. However, Ms. Shikali for the exparte applicants stated that since May 2025, the clients had withdrawn instructions hence she was not able to represent them.
13. The court record shows that the Judgment Debtors were individually served via their WhatsApp contacts and affidavit of service filed in court to that effect. Their employer too was served with the Notice to Show Cause.
14. The Judgment Debtors were absent. The court allowed the Decree Holder's Counsel to proceed and prosecute the Notice to Show Cause since the Judgement Debtors were served personally.
15. I have considered the application for Notice to Show Cause why the Judgement Debtors' respective salaries cannot be attached to satisfy taxed costs. I am satisfied that the Decree Holder has made every effort to have the costs settled to no avail as no attachable properties of the Judgment Debtors was traced and neither could then be arrested to appear and show cause why they cannot be committed to civil jail.
16. The only available option is attachment of their salaries since they are in gainful public employment. Their Counsel did inform the court that although she had no instructions from May 2025, she was served and that

she dully notified the Judgment Debtors of the proceedings. The Judgment Debtors have had an opportunity to show cause but opted not to appear in court. That being the case, I find the Notice to Show Cause application for attachment of the Judgment Debtors' salaries merited.

17.I allow the application for Notice to Show Cause and order that the respective salaries of the exparte applicants herein, Nelson Mwenda Paul PF No.2022030046 and Jackline Karambu PF No.20230132180 to the tune of $\frac{1}{3}$ of the said salaries and who are in employment of the Nairobi City, County Government be and are hereby attached, to be remitted to the 1st Respondent's through its Counsel Abidha & Co. Advocates on a monthly basis until Kshs. 676,450 inclusive of the cost of the Notice to show cause application is fully settled.

18.This order shall be served upon the County Secretary and Head of County Public Service, Nairobi City County to cause to effect the deductions and remittances of the deducted salaries to the 1st Respondent through its Counsel Ms. Abidha & Co. Advocates whose Bank Details shall be an annex to the order to be extracted from this Ruling, which order shall contain a Penal Notice.

19.I make no further orders as to costs. Mention on 2/12/2025 to confirm compliance with this order.

20.I so order.

Dated, Signed and Delivered at Nairobi this 4th Day of November, 2025

**R.E. ABURILI
JUDGE**

ORIGINAL