

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW APPLICATION NO. E.131 OF 2022

REPUBLIC..... APPLICANT

VERSUS

NAIROBI METROPOLITAN
SERVICES (NMS).....1ST RESPONDENT

THE DIRECTOR ROADS, PUBLIC WORKS
& TRANSPORT, NMS.....2ND RESPONDENT

THE DIRECTOR OF ENFORCEMENT, NMS.....3RD RESPONDENT

THE INSPECTOR GENERAL OF POLICE.....4TH RESPONDENT

THE DTO CENTRAL POLICE STATION.....5TH RESPONDENT

THE HON. ATTORNEY GENERAL.....6TH RESPONDENT

AND

METRO TRANS E.A LTD.....INTERESTED PARTY

AND

KAKA TRAVELLERS CO-OPERATIVE SAVINGS
AND CREDIT SOCIETY LTD.....EX-PARTE APPLICANT/RESPONDENT

AND

ROSANA OSCAR OMURWA.....CONTENOR/APPLICANT

RULING

1. This matter is before court today for mitigation by the contemnor. However, the interested Party's Counsel has filed an application dated 8/11/2025 seeking to have this court recuse itself from handling this matter. I agree that where such an application is made, the court should dispense with it before it can make any other move.
2. I however do not agree that during that period of hearing and determining the application for recusal of a Judge, a contemnor

cannot purge the contempt as part of the mitigation, noting that there is no stay of purging of that contempt and the court, from *Ndung'u J & Chigiti (S.C)* dismissed all application filed by the contemnor seeking to set aside the contempt orders.

3. Additionally, an application for recusal of a Judge should never be used to divert the attention of the court from expeditious and just disposal of cases and therefore that application must, of necessity, be heard and determined expeditiously, noting that the applicant came to court under certificate of urgency and therefore there is no way it can now tell the court that it needs all the time, for the record, to file any subsequent documents or responses for the disposal of the application. That smacks of bad faith and an attempt to delay these proceedings.
4. Accordingly, in the circumstances, I make the following orders;
 1. ***That no other proceedings shall take place in this matter in this court until the application for recusal of the Judge dated 8/11/2025 and filed by the Interested Party are heard and determined.***
 2. ***The application dated 8/11/2025 shall be canvassed by way of written submissions.***
 3. ***That the exparte applicant is hereby granted 3 days of today to file and serve a replying affidavit to the application dated 8/11/2025.***
 4. ***That the applicant has seven (7) days of the date of service to file and serve a further affidavit if need arises, together with written submissions upon which, the Respondent/Exparte Applicant shall have 7 days of the***

date of service to file and serve a supplementary affidavit, if need arises, together with written submissions.

5. Mention on 2/12/2025 to fix a Ruling date on the application dated 8/11/2025.

6. This Ruling to be typed forthwith.

5. I so order.

Dated, Signed and Delivered at Nairobi this 12th Day of November, 2025

**R.E. ABURILI
JUDGE**

ORIGINAL