



**Mwangi v Permanent Secretary, Ministry of Interior and Coordination
of National Government (Miscellaneous Civil Application E049 of 2025)
[2025] KEHC 17731 (KLR) (27 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17731 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
MISCELLANEOUS CIVIL APPLICATION E049 OF 2025
TW OUYA, J
NOVEMBER 27, 2025**

BETWEEN

NELLY WANGARI MWANGI APPLICANT

AND

**THE PERMANENT SECRETARY, MINISTRY OF INTERIOR AND
COORDINATION OF NATIONAL GOVERNMENT RESPONDENT**

RULING

1. The Applicant approached this Court through a Notice of Motion Application dated 26th May 2025 brought under Certificate of Urgency which is premised under the provisions of Article 159(2) (d) of *the Constitution* of Kenya as read together with Sections 1A, 1B, 3A, of the *Civil Procedure Act* and Section 5 of the *Judicature Act*.
2. The Applicant craves for reliefs the 1st of which is spent. He seeks further that the Permanent Secretary of the Ministry of Interior and Coordination of National Government be held in contempt of Court for willingly disobeying the Judgment delivered on 8th October 2015 in Murang'a CMCC 174 of 2013 and the subsequent decree issued on 14th April 2023 by the Honourable Court in Murang'a HCC JR MISC APP No. 2 of 2019, that this Honourable Court be do issue a notice to the Respondent to show cause why contempt proceedings should not be commenced against him for failing forthwith to comply with the said Decree issued on 14th April 2023 and that the Respondent be directed to purge the contempt by paying Kshs.2,697,701.40 plus interest and costs within 14 days from the date of this Order and THAT costs of this Application be provided for.
3. The Application is supported on the grounds enumerated on its face and the Affidavit sworn by the Applicant on 26th May 2025. The Applicant's case is that that on or about 8th November 2007, Maureen Mugure Wangari (Minor) died while being held at the Murang'a Juvenile Prison. The Deceased's certificate of death dated 22nd January 2009 indicates the cause of death as: "Non-Accidental



Injury in Child Trauma by Blunt Force”. That the Applicant commenced Civil Suit No. 174 of 2013 in her capacity as the Legal Representative of the Estate of the Deceased, alleging negligence and causing the death of the deceased as against the Attorney-General (1st Defendant) and the Commissioner of Police (2nd Defendant).

4. That Civil Suit No. 174 of 2013 culminated in a judgment dated 8th October 2015 whereby, the Court found the Defendants 100% liable for the Deceased’s death and awarded a total sum of Ksh.1,849, 630 being compensation for general damages, loss of expectation of life, loss of dependency and special damages exclusive of costs and interests. Further, the Court issued a Certificate of Order dated 1st April 2016 directing the Respondent to pay Ksh.2,697,701.40 to the deceased’s Estate being the entire decretal amount plus interests from 29th May 2023 until 8th October 2015 and costs.
5. The Applicant deposed that he filed suit number HCC JR MISC APP No.2 of 2019 seeking an Order of Mandamus compelling the Respondent to settle the decretal sum inclusive of costs and interest of Ksh.2,697,701.40 eventuating in the Judgment of this Court (differently constituted) dated 21st March 2023 wherein the Respondent was directed to render the decretal sum together with costs and interests from 8th October 2015 until payment in full. Furthermore, the Court issued a Decree dated 14th April 2023 as against the Respondent which the Respondent has failed to satisfy.
6. She further deposed that by failing to comply with the terms of the above-mentioned Decree, the Respondent committed acts of contempt of Court resulting in the lodging of the instant suit.
7. The Respondent resisted the subject suit through grounds of opposition dated 20th June 2025 and averred that the subject Application is incurably defective, incompetent, misplaced and an abuse of the due process of the Court because the Applicant cited the wrong party in the proceedings before the Court. The Respondent’s Grounds of Opposition are supported by the Affidavit sworn by Leah N. Gathenya on 23rd June 2025 on behalf of the Attorney-General and even-dated written submissions.
8. The Respondent further averred that the Principal Secretary, State Department for Children Services, Ministry of Gender, Culture and Children’s Services is the proper Respondent with respect to the instant proceedings as per the directions contained on Executive Order No.1 of 2025.
9. During the hearing conducted on 30th June 2025 counsel for the Applicant (Mr. Kamau) informed the Court that the Applicant would be relying on the Application before the Court as is without filing any other pleadings and submissions.
10. The Respondent in its written submissions dated 23rd June 2025 opined that the issue for determination by this Court, is Whether the Permanent Secretary of the Ministry of Interior and Coordination of National Government is a proper party to be cited for contempt or recovery of the outstanding decretal sum.
11. It was further submitted that Section 21(3) of the [Government Proceedings Act](#) requires the execution of money judgments against the government to be directed to the relevant Accounting Officer. Guidance was placed in the holding of the Court in Tom v Director of Public Prosecution & 2 others; Kenya National Highways Authority & Another (Interested Parties) [2022] KEHC 151 (KLR) to buttress the argument that the Accounting Officer of a public entity is the person responsible for managing that entity’s finances.
12. Further reliance was placed on the holding of the Supreme Court of Kenya in Communications Commission of Kenya & 5 Others v Royal Media Services Ltd & 5 others [2014] eKLR to anchor the proposition that judicial review proceedings should not be weaponized and the Courts must avoid



rendering decisions which could affect innocent public officers adversely in the performance of their lawful duties.

13. Having set out the parties' respective positions with regard to the subject proceedings, the main issue that commends itself for resolution is whether Applicant's suit is merited. In determining the above, this court will first address the issue as to whether the applicant has joined the wrong party by suing Permanent Secretary of the Ministry of Interior and Coordination of National Government.
14. The current proceedings originate from the death of the Deceased occurring on or about 8th November 2007 while the Deceased was held at Murang'a Juvenile Prison. The suit giving rise to the subject proceedings was commenced by the Applicant herein vide a Plaint dated 28th May 2013. It is approximately 10 years since the delivery of the Judgment of the Trial Court dated 8th October 2015 which found the Offices of the Attorney General and Commissioner of Police 100% liable for the demise of the Deceased in custody. In the intervening period, there has been protracted litigation between the parties herein on the subject of the enforcement of the aforementioned decision by the trial Court.
15. Section 21(1) of the [Government Proceedings Act](#),

“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.”

16. In *Republic v Principal Officer, Finance County Government of Mombasa; John Mbau Mburu t/a J.M. Mburu & Company Advocates (Ex-parte Applicant)* [2025] KEHC 6895 (KLR), the Court held that the Accounting Officer is the “proper party” for enforcement of payment orders, and that the Government is immune from execution unless the Certificate of Order Against the Government is issued. The court also noted that the Accounting Officer is the one who must be named in proceedings seeking enforcement.
17. Similarly, in the case of *Malombo t/a OM Robinson & Company Advocates v Mbaruk & another* [2024] KEHC 7309 (KLR), the court emphasized that the statutory duty to pay is placed on the Accounting Officer under Section 21(3) of the [County Governments Act](#) as hereunder:

“The point is that an application for the certificate and its issue are not futile exercises or an exercise in vain for, under section 21(3) of the Act, the certificate serves a specific purpose: it is on the basis of the certificate that the accounting officer for the Government department concerned makes the payment due to the person or party in the proceedings in whose favor the order was made and the certificate issued. This is what I understand to be the meaning of “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...”



18. In *Malombo t/a OM Robinson & Company Advocates v Mbaruk & another* (supra) the Court ruled that the petition before it was brought against the wrong parties and highlighted the importance of identifying the correct accounting officer for the relevant government department.
19. The Court has carefully perused the Judgment of this Court dated 21st March 2023 and resultant Decree issued on 14th April 2023, wherein the Permanent Secretary, Ministry of Interior and Coordination of National Government is named as the Respondent.
20. In opposing the current proceedings, the Respondent relied on the provisions of Executive Order No.1 of 2025, and submitted that the Applicant ought to have cited the Principal Secretary, State Department for Children Services, Ministry of Gender, Culture and Children's Services as distinguished from the Permanent Secretary of the Ministry of Interior and Coordination of National Government.
21. The court has carefully perused the Certificate of Order Against the Government dated 1st April 2016 on record wherein the Attorney general is named as 1st Defendant appearing for the Permanent Secretary of the Ministry of Interior and Coordination of National Government while the Inspector-General of Police is named as the 2nd Defendant. Further, the order of mandamus dated 21st March 2023 is specific that the Permanent Secretary of the Ministry of Interior and Coordination of National Government should pay the decretal amount to the Applicant. It states:

“.....Compelling the Permanent Secretary of the Ministry of Interior and Coordination of National Government to pay the applicant the sum of kshs. 2,697,701.40 being the decretal sum in the civil suit no. 174 of 2013”
22. This Court is satisfied that the proper officer has been named therein as per the requirements of Section 21 of the *Government Proceedings Act*.
23. In the premises, the Court is not persuaded by the Respondent's submissions that the subject proceedings offend the provisions of Section 21 of the *Government Proceedings Act*.
24. Furthermore, it is noteworthy that the Respondent has not supplied the aforesaid Executive Order No.1 of 2025 for perusal by the Court. Be that as it may, the Court notes that the aforementioned Executive Order is predated by the litigation in the matter before the Court. The Applicant is the holder of a successful Judgment dated 8th October 2015 giving rise to a decree for kshs.2,495.40 plus costs of 202,175.00 which was not honored.
25. This Court is mindful of the injustice that would result from subjecting the Applicant to unending litigation due to a re-organization of governmental departments, which re-organization took place long after the Applicant procured the Orders sought to be enforced in the current proceedings.
26. The court also takes notice that the Permanent Secretary Ministry of Interior and Coordination of National Government was cited as the 1st Defendant in the original suit but was represented by the Attorney General. It is in order as already cited above that once judgement is entered against a government ministry or Agency the Chief officer in that Ministry or Agency takes responsibility to settle the decretal amount in full.
27. In the premises, the following are the Final Orders of the Court:
 - i. Judgment is hereby entered in favor of the Applicant in accordance with prayers (2), (3) and (4) as enumerated in the Application dated 26th May 2025.
 - ii. The Applicant is entitled to and is hereby granted the costs of the instant Petition.



DATED, SIGNED AND DELIVERED ELECTRONICALLY THIS 27TH DAY OF NOVEMBER,
2025.

HON. T. W. OUYA

JUDGE

