

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
JUDICIAL REVIEW NO 8A OF 2022

REPUBLIC.....
APPLICANT

VERSES

**CABINET SECRETARY, MINISTRY OF INTERIOR AND
COORDINATION OF NATIONAL GOVERNMENT**

THE ATTORNEY

GENERAL.....RESPONDENT

AND

GEORGE KAMAU NDUNG’U (suing as the legal representative
of the Estate of the late Solomon Mwaura) &

TERESIA NYAMBURA GITAU (suing as the legal
representative of the Estate of the late Peter Njoroge)

SUBJECT/RESPONDENTS

RULING

1. This is the application dated 15th November, 2024 where
the respondents are seeking the following orders:

- (i) *The honourable court be pleased to order that
the decretal sum herein has been fully settled
and no balance is outstanding.*
- (ii) *The honourable court be pleased to set aside the
Notice to Show Cause against the Senior Chief*

Finance Officer in the State Department of Internal Security and National Administration.

(iii) The cost of the application be provided for.

2. It's supported by the grounds on its face and the supporting affidavit.
3. A replying affidavit dated 2nd December, 2024 was filed by the applicants maintaining that the government owed the shortfall in the claim.
4. The application was canvassed by way of written submissions.

Respondents/applicants' submissions

5. These were filed by Kepha Onyiso deputy chief state counsel and are dated 27th October, 2025. He submitted that the respondents settled the decretal sum of Ksh 7,090,492/=. Thus, the later claim of Ksh 758,685 is uncalled for. Referring to section 4(4) of the Limitation of Actions Act he stated that interest in this matter became due on 6th December, 2017 when the certificate of costs was issued. He therefore contended that in view of the law the exparte applicant was not entitled to apply and claim interest beyond 6th December, 2023.
6. Counsel submitted that the amount owing was correctly calculated by the Attorney General taking into account the 6 year period. Reference was made to the case of **Makwata Construction & Engineering Company Ltd**

V Limuru Girls School, Misc. Application No. 532 of 2015.

Subject/respondents

7. These were filed by Kamonjo Kiburi & Co. advocates and are dated 29th October, 2025. Counsel gave a background to this claim. He submitted that on 20th May, 2024 a partial payment of Ksh 7,090,492/07 was made leaving a balance of Ksh 758,685/= duly acknowledged by the government's counsel in a letter dated 14th June, 2024. That this was further confirmed vide a replying affidavit by the State counsel.
8. Counsel argued that following the amendment of the Judgment in Nakuru HCC No. 84 of 2008 on 21st September, 2017 interest started accruing from the said date. So, to him the expiry date was 21st September, 2023 as dictated by section 4(4) of the Limitation of Actions Act. That a certificate of satisfaction order for decree against the government for the sum of Ksh 7,849,177/= was issued on 27th April, 2023. He referred to the case **of Mwango V Oisosa & 2 others (Civil Suit No. 396 of 1998) [2023] KEELC 17465 (KLR) (17 May, 2023) (Ruling)**.
9. Counsel submitted that the amount claimed was determined by the court after hearing and determining the application dated 14th July, 2022. That the Ruling has not

been challenged, neither has the Notice that was issued by this court been challenged.

Analysis and determination

10. I have carefully considered the application, affidavits, both submissions, the law and cited authorities. The issue falling for determination is whether the respondents have settled the decretal sum owed to the applicants.

11. There is no dispute that Judgment was entered in this matter on 22nd September, 2016. The same was amended on 21st September, 2017. It is not clear what the amendment was about since there is no copy of the original Judgment herein. Were the amounts awarded amended? This court is not in a position to confirm that since the original Judgment is not in this file.

12. Mr. Kamonjo Kiburi has mentioned documents like:

- (i) Certificate of costs for 109,177/=
- (ii) Court order of 21st December, 2022 awarding additional costs of Ksh 279, 995/=
- (iii) Certificate of Satisfaction order for decree against the government for the sum of Ksh 7,849,177 issued on 27th April, 2023.

None of these documents is in this file.

13. From the record an order was issued by Justice H. Chemitei allowing the application dated 14th July, 2022. This order is dated 6th December, 2022. As per this order

the respondents were to pay the sum of Ksh 7,401,177/= and not 7,041,177/= as claimed by the respondents. The alleged certificate of satisfaction order for decree against the government in this file is an unsigned draft showing additional interest of Ksh 448,000/= making a total of Ksh 7,849,177/= as claimed by the respondents. There is no evidence of how the sum of Ksh 448,000/= was arrived and by whom it was calculated.

14. Section 4(4) of the Limitation of Actions Act provides:

An action may not be brought upon a judgment after the end of twelve years from the date on which the judgment was delivered, or (where the judgment or a subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods) the date of the default in making the payment or delivery in question, and no arrears of interest in respect of a judgment debt may be recovered after the expiration of six years from the date on which the interest became due.

The Judgment in respect of this matter having been entered on 22nd September, 2016 then in compliance with provisions of the Limitations of Act, the last date for charging interest on the decretal sum was 22nd September, 2022 and not beyond.

15. In the application dated 14th July, 2022 and which was allowed the following were the sums allowed on 6th December, 2022 by Chemitei J:

Interest	Ksh 3,192,000/=
Assessed Costs	Ksh 209,177/=
Award of damages for the respondents (2,000,000/= x 2)	Kshs 4,000,000
TOTAL	Ksh 7,401,177/=

16. If there is any interest to be charged it should only be for the months of August & September, 2022. Any charges of interest after 22nd September, 2022 is unlawful.

17. The payment made and received being Ksh 7,090,492/07 then there is a balance of Kshs 7,401,177 - 7,090,492/07 = Kshs 310,685/=.

18. I therefore order the respondent/applicants to pay the subjects/respondents the balance of Ksh 310,685/= plus interest on the said amount for August & September 2022 only. This should be paid within 60 days for closure of this file.

19. Mention on 26th February, 2026 to confirm payment.

20. Each party to bear its own costs.

21. Orders accordingly

**Delivered virtually this 18th day of December, 2025
in open court at Nakuru.**

H. I. ONG'UDI

JUDGE