



**Karobia & another v County Executive Committee Member for Finance County Government of Kiambu (Judicial Review E025 of 2025) [2026] KEHC 341 (KLR) (1 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 341 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
JUDICIAL REVIEW E025 OF 2025  
DO CHEPKWONY, J  
JANUARY 1, 2026**

**BETWEEN**

**NELLIE GACHIKU KAROBIA ..... 1<sup>ST</sup> APPLICANT**

**GODFREY KINUTHIA KAROBIA ..... 2<sup>ND</sup> APPLICANT**

**AND**

**COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE COUNTY  
GOVERNMENT OF KIAMBU ..... RESPONDENT**

**RULING**

1. This is a ruling in respect of a Notice of Motion application dated 30<sup>th</sup> September, 2025, wherein the Applicants Nellie Gachiku Karobia and Godfrey Kinuthia Karobia have sought that:-
  - a. An Order of Mandamus do issue against the Respondent compelling the Respondent to satisfy the decree issued on 15<sup>th</sup> December, 2022 in Nairobi ELRC No.698 of 2011, Nellie Gachiku Karobia and Godfrey Kinuthia Karobia –vs- Town Council of Kikuyu.
  - b. An Order of Mandamus do issue against the Respondent compelling the Respondent to pay the Applicants the sum of Kshs. 357,750/= as per Certificate of Taxation dated 10<sup>th</sup> June, 2021.
  - c. In default of compliance with the orders of mandamus and failure to pay the sum of Ksh.s 357,750/= be deemed as sufficient notice under Section 30 (1) of the *Contempt of Court Act* 2016 to the persons holding the office or title of the County Secretary of Kiambu County Government requiring them to show cause why contempt of court proceedings should not be commenced against them thirty days after the date of service of the orders of mandamus.
  - d. In default of compliance with the orders of mandamus and failure to pay the sum of Kshs. 357,750/= and failing to show sufficient cause for non-compliance with the orders of mandamus the Applicant be at liberty to commence contempt of court proceedings against the



person holding the office or title of the County Secretary of Kiambu County Government for them to be personally summoned to court and committed to civil jail for contempt of court.

- e. Any further relief that the court deems fit in the interest of justice.
  - f. That the costs of this application be provided for.
2. It is the argument of the Applicant that a certificate of costs was issued against the Town Council of Kikuyu for payment of Kshs. 357,750/= and a Decree was issued on 15<sup>th</sup> December, 2022 when the defunct Kikuyu Town Council was still operational. That the liabilities are now to be paid by the County Government of Kiambu and the Respondent being its Accounting Officer should be ordered to pay the same.
  3. The application has been opposed vide a Replying Affidavit of Waithira Waiyaki sworn on 26<sup>th</sup> November, 2025, wherein she has averred that it is not in dispute that there is a decree and certificate of costs against the defunct Kikuyu Town Council, now to be paid by the County Government of Kiambu. She has however deponed that failure to settle the same is not deliberate but due to budgetary constraints and statutory financial procedures whereby payment must follow budgetary process. She contends that the payment was in the budget proposal for the year 2024/2025 which once approved and the funds are made available, the judgment debt shall be paid. She argues that an order of mandamus would circumvent the legal financial procedures and urges that in the interest of justice, the court exercises its discretion such that, instead of issuing mandamus order, give the Respondent reasonable time to lawfully process and settle the decretal sum.

#### **Analysis and Determination**

4. Having carefully read through the grounds set out in support of and in opposition of the prayers sought by the Applicant herein, I find the issue for determination being whether the Applicant has satisfied the threshold set for an order of mandamus to issue in respect of a decree.
5. The Court of Appeal in the case of Republic –vs- Kenya National Examination Council Exparte Gathenji and Others, Civil Appeal No.266 of 1996, set out the parameters of Judicial Review Orders of Mandamus as follows:-

“The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual. The order must command no more than the party against whom the application is made is legally bound to perform. Where a general duty is imposed, a mandamus cannot require it to be done at once. Where a statute, which imposes a duty leaves discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid, a mandamus cannot command the duty in question to be carried out in a specific way..... These principles mean that an order of mandamus compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed”. An order of mandamus compels the performance of a duty imposed by statute where the person or



body whom the duty is imposed fails or refuses to perform it that the duty has not been performed according to the law, then mandamus is wrong remedy to apply because like an order of prohibition, an order of mandamus cannot quash what has already been done...”.

6. In the instant case, the Applicants are seeking an order of mandamus to issue against the Respondent, County Government of Kiambu to be compelled to satisfy a decree issued against it on 15<sup>th</sup> December, 2022 vide Nairobi ELRC No.698 of 2011 and pay them a sum of Kshs.357,750.00 as per the Certificate of Taxation dated 10<sup>th</sup> June, 2021.
7. It is worth noting that the Respondent is the County Government, and just like the National Government, such application against them are governed by the provisions of Section 21 of the Government Proceedings Act for it to be tenable. Section 21 provides that:-

“[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
8. In the case of Republic –vs- County Government of Vihiga Ex parte Global Exhibitions Incorporated Ltd [2021] eKLR (Musyoka J), 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.”
9. A reading of Section 21 of the [Government Proceedings Act](#) clearly shows that the wordings are clear and mandatory terms that for execution against the Government to proceed a Certificate of Order must be issued. In this regard the court in the case of Republic –vs- Permanent Secretary, Ministry of State for Provincial Administration and Internal Security Ex parte Fredrick Manoah Egunza [2012] eKLR, the Court stated:-
- “The only requirement which serves as a condition precedent to the satisfaction or enforcement of decrees for money issued against the Government is found in Section 21(1) and (2) of the [Government Proceedings Act](#) (hereinafter referred to as the Act) which provides that payment will be based on a certificate of costs obtained by the successful litigant from the court issuing the decree which should be served on the Hon. Attorney General. The certificate of order against the Government should be issued by the court after expiration of 21 days after entry of judgment. Once the certificate of order against the Government is served on the Hon Attorney General, section 21(3) imposes a statutory duty on the accounting officer concerned to pay the sums specified in the said order to the person entitled or to his advocate together with any interest lawfully accruing thereon.”
10. This was also the position in the case of Republic –vs- County Secretary Migori County Government & Another [2019] eKLR, where the court said:-
- “[11]. I need not re-emphasize the need for strict compliance with Section 21 of the Act being the law of the land. In this matter I can gather from the record that a Decree and a Certificate of Costs in the suit was drawn and issued. I did not set my eyes on any Certificate of Order. There is a specific procedure on how the Certificate of Order required under the Act is obtained. The procedure is contained in Order 29 of the Civil Procedure Rules. Under Rule 3 thereof the application is made to the Deputy Registrar in the High Court or to the court in the subordinate court. The format of the Certificate of Order is provided in Appendix A Form No. 22 of the Civil Procedure Rules. Form No. 23 provides the format for a Certificate of Costs in the event it is separately issued.
- [12]. Once a party obtains the Certificate of Order and the Certificate of Costs, in the event the Certificate of Costs is obtained separately, together with the Decree, then such a party must satisfy the Court of service of those documents



upon the party named in the Certificates. In this case there is neither evidence of issuance of the Certificates nor service thereof on the Respondents or their Advocates.”

11. I have carefully perused the record herein and find there is no evidence of Certificate of Order having issued against the Government. For this reason, the Court cannot proceed with the execution process against the Government as the same is irregular. In the circumstances the court finds the orders sought herein cannot be granted and consequently the Notice of Motion Application dated 30<sup>th</sup> September, 2025 he and is hereby struck out.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 1<sup>ST</sup> DAY OF JANUARY , 2026.**

**D. O. CHEPKWONY**

**JUDGE**

In the presence of:

Christine Ngithi Counsel for Applicants

Court Assistant – Martin/Sakina

