



Republic v County Secretary, Nairobi City County & another; Munikah t/a Munikah & Company Advocates (Ex parte) (Judicial Review Miscellaneous Application 705 of 2017) [2026] KEHC 525 (KLR) (Judicial Review) (28 January 2026) (Ruling)

Neutral citation: [2026] KEHC 525 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION 705 OF 2017
RE ABURILI, J
JANUARY 28, 2026**

BETWEEN

REPUBLIC APPLICANT

AND

**THE COUNTY SECRETARY, NAIROBI CITY COUNTY 1ST RESPONDENT
CHIEF OFFICER, FINANCE COUNTY TREASURER, NAIROBI CITY
COUNTY 2ND RESPONDENT**

AND

**SAMSON MASABA MUNIKAH T/A MUNIKAH & COMPANY
ADVOCATES EX PARTE**

RULING

1. The application before this court is dated 10th November 2025 and it seeks the following orders:
 - a. That this Honourable Court be pleased to issue summons to the 1st and 2nd Respondents herein, the County Secretary, Nairobi City County and the Chief Officer, Finance/County Treasurer, Nairobi City County to appear before this Court on a date to be set by this Honourable Court to explain why Orders issued on 28th February 2019 by the Hon. Justice John Mativo have been breached and show cause why they should not be held in contempt of Court for wilful disobedience of those orders.
 - b. That the 1st and 2nd Respondents herein, the County Secretary, Nairobi City County and the Chief Officer, Finance/County Treasurer, Nairobi City County be cited for contempt of Court for disobeying the Orders issued by this Honourable Court on 28th February 2019.



- c. That in default of the prayers above, warrants of arrest do issue against the 1st and 2nd Respondents herein, the County Secretary, Nairobi City County and the Chief Officer, Finance/County Treasurer, Nairobi City County and that they be committed to civil jail for six months or any other sanction as this Honourable Court may deem appropriate.
 - d. That the costs of this application be borne by the 1st and 2nd Respondent herein, the County Secretary, Nairobi City County and the Chief Officer, Finance/County Treasurer, Nairobi City County.
2. The application is supported by the affidavit of Samson Masaba Munikah on even date.
 3. The Applicant's case is that on 14th July 2016, the Court in H.C Misc. Application. 480 of 2015- Munikah & Company Advocates-vs-Nairobi City County, issued a certificate of costs for Kshs. 662,750/= after the Bill of Costs was allowed by consent on 29th June 2016.
 4. That the certificate of taxation was adopted as the Judgment of the Court by Hon. Lady Justice Rachel Ng'etich on 28th July 2017, and a Decree dated 30th August, 2017 and certificate of order dated 19th March 2018 issued.
 5. The Applicant states that further to issuance of the certificate of costs, it wrote to the Respondents demanding payment of the decretal sum awarded as per the Certificate of Costs together with the accrued interest, however payment of the outstanding sum together with the interest was not made. This prompted the filing of the application dated 24th August 2017 seeking judgment.
 6. That the application was heard and determined inter parties and a judgement dated 30th October 2017 entered by the Court. That the Applicant wrote to the Respondents demanding payment of the decretal sum awarded as per the certificate of costs together with the accrued interest.
 7. As efforts to have the amount paid had proved futile the Ex-parte Applicant sought orders of mandamus to compel the County Government of Nairobi to pay the outstanding sums and this was vide HCC Misc. Civil Case No. 705 of 2017: Republic vs The County Secretary, Nairobi City County & The Chief Officer Finance/ County Treasurer, Nairobi City County where the court is said to have on 5th February 2019, issued orders of mandamus against the County Secretary, Nairobi City County and the Chief Officer Finance/ County, Nairobi City County compelling them to pay the sum of Kshs. 662,750/= being the decretal sum as well as the accrued interest which as at 29th July 2016 stood at Kshs. 131,445/= and interest thereon at 14% per annum until payment in full.
 8. It is asserted that the Exparte Applicant has since issued and served a further demand vide a letter dated 10th November 2025 received by the 1st and 2nd Respondents herein personally through their offices as well as the Office of the County Attorney for the Respondents to settle the decretal sum which stands at Kshs.2,256,300/=. The Applicant argues that the same is yet to be complied with thus necessitating the filing of the instant application
 9. The Applicant contends that, the Respondents have participated fully in the litigation of the matter before this court having counsel on record, and as such are aware of the existing court orders as issued by this Honourable Court.

Submissions

10. Counsel for the Applicant and Respondents adopted their positions in JR 704 of 2017 which according to counsel for the Applicant, is related to the instant matter.



Analysis and Determination

11. I have considered the application, the supporting affidavit, and the oral submissions made by counsel for the Applicant. The only issue for determination is whether the orders sought can lawfully issue.
12. The law on contempt is now settled. Court orders are not mere suggestions. Once issued, every party against whom they are directed is duty-bound to obey them unless and until the said orders are lawfully set aside.
13. Public officers may be cited personally for contempt where they willfully disobey court orders issued against the institutions they lead or represent. In this case, the law holds accounting officers responsible for settling decrees issued by courts of competent jurisdiction. Disobedience of a court order fundamentally undermines the rule of law, which is the foundation of the administration of justice.
14. It is not in contention that the Respondents were duly served with all court processes. No evidence has been tendered to show compliance or any intention to comply. The Respondents have also not sought a stay or appealed the decision, and as such the court's order remains binding upon them.
15. The Respondents' conduct, as their counsel acknowledges, shows that no effort has been made despite being informed of the seriousness of this matter. This amounts to deliberate, reckless, and unlawful disobedience of a court order. Moreover, the value of the shilling depreciates daily, and the continued accrual of interest resulting from the Respondents' lack of due care imposes an increasing and undue burden on the taxpayer.
16. The law places the duty to settle decrees on accounting officers. Section 21 of the [Government Proceedings Act](#) provides that the accounting officer designated under the [Public Finance Management Act](#), 2012, is responsible for settling decrees. There is no evidence to the contrary, and the Chief Officer Finance is properly designated by the County Executive Committee Member for Finance as the accounting officer.
17. The County Secretary, not being the accounting officer in respect of the obligation in issue, cannot, on that basis, be held personally liable for contempt, absence of evidence of contempt on his part for obstructing the cause of justice.
18. The Respondents have made no payments towards the valid decree of the court. The Applicant's only remedy is a writ of mandamus, which was issued by this Court. Disobedience of this order of mandamus constitutes contempt of court.
19. In *Teachers Service Commission vs. Kenya National Union of Teachers & 2 others* [2013] eKLR, the court observed as follows:

“The reason why courts will punish for contempt of court is to safeguard the rule of law which is fundamental in the administration of justice. It has nothing to do with the integrity of the Judiciary or the court or even the personal ego of the presiding Judge. Neither is it about placating the applicant who moves the court by taking out contempt proceedings. It is about preserving and safeguarding the rule of law.”



20. In *Shimmers Plaza Limited v National Bank of Kenya Limited* [2015] eKLR the Court of Appeal considered the following on knowledge of existence of a court order:

“Kenya’s growing jurisprudence right from the High Court has reiterated that knowledge of a court order suffices to prove service and dispense with personal service for the purposes of contempt proceedings, for instance, Lenaola J in the case of *Basil Criticos v Attorney General and 8 Others* [2012] eKLR pronounced himself as follows:

‘...the law has changed and as it stands today knowledge supersedes personal service... where a party clearly acts and shows that he had knowledge of a court order, the strict requirement that personal service must be proved is rendered unnecessary.’

21. The Respondents herein have not disputed knowledge of the order of mandamus, nor have they challenged these proceedings from their inception.

22. Accordingly, the Chief Officer Finance, the 2nd Respondent herein, being the designated accounting officer, is hereby found guilty of contempt of court for willful disobedience of the court order of mandamus issued on 25th February 2019 and is hereby convicted for such contempt of court orders.

23. The 2nd Respondent shall appear before this Court to mitigate and show cause why she should not be punished for contempt of court in accordance with the law, on 25th March, 2026.

24. Owing to the ever-increasing heavy burden to the tax payer, I order that each party bear their own costs of this application for contempt of court.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 28TH DAY OF JANUARY, 2025

R.E. ABURILI

JUDGE

