



**Republic v County Secretary, Nairobi City County & another; Munikah t/
a Munikah & Company Advocates (Ex parte) (Miscellaneous Civil Case
704 of 2017) [2026] KEHC 582 (KLR) (Civ) (28 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 582 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

MISCELLANEOUS CIVIL CASE 704 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 willful 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 sworn on even date.
 3. The Applicant's case is that on 7th August 2012, the Court High Court Misc. Application No. 247 of 2011; Munikah & Company Advocates vs. City Council of Nairobi, issued a Certificate of Costs for Kshs. 498,757,315.28 for an Advocate and Client Bill of Costs dated 25th May 2011 that was taxed by the Court on 1st August 2012.
 4. That payment of the outstanding sum together with the interest was not made prompting the Applicant to file an application dated 24th August 2017 seeking for the court to enter judgment based on the amount in the certificate of taxation with interest thereon at a statutory rate of 14% per annum from 31st December 2018 till payment in full. It is the Applicant's case that the application was heard and determined inter parties and judgement delivered on 30th October 2017.
 5. The Applicant, it is urged then proceeded to seek for orders of mandamus to compel the City County Government of Nairobi to pay the outstanding sums and on 25th February 2019, the court issued orders of mandamus against the County Secretary, Nairobi City County, The Chief Officer Finance and the County Treasurer, Nairobi City County compelling them to pay the sum of Kshs. 847,887,435.97 being the decretal sum as well as the accrued interest which is said to have as at 29th July 2016 stood at Kshs.9,756,512.96 and interest thereon at 14% per annum until payment in full.
 6. It is urged that further to the delivery of the ruling and issuance of the order, on 12th July 2019, the County Government of Nairobi paid Kshs. 250,000,000 leaving a balance of Kshs. 629,758,711.00. That the County through its Advocates on record filed an application dated 6th March 2019 seeking leave to file a reference out of time to challenge the taxation decision delivered on 1st August 2012 and the Certificate of Costs dated 7th August 2012. According to the Applicant leave was granted on 4th October 2023, however in the Court ruling of 25th August 2025, the court dismissed the said reference application with costs.
 7. The Applicant states that the Certificate of Costs dated 7th August 2012 and the orders of mandamus against the County Secretary, Nairobi City County, and the Chief Officer Finance/County Treasurer, Nairobi City County compelling them to pay the Applicant Kshs. 847,887,435.97 being the decretal sum as well as the accrued interest which as at 29th July 2016 stood at Kshs. 9,756,512.96 and interest thereon at 14% per annum until payment in full remain valid, enforceable, and binding in their entirety.
 8. It is the Applicant's case that a further demand for the Respondents to settle the decretal sum which stands at Kshs. 1,180,408,651/= has since been made vide a letter dated 5th November 2025, however, that the same is yet to be complied with thus necessitating the filing of the instant application.
 9. The Applicant urges that the Respondents, as accounting officers of Nairobi City County, have failed to settle the sums due, thereby necessitating the present application. It is further asserted that the contemnors' continued non-compliance undermines the authority and dignity of the Court, is deliberate and contumelious, and interferes with the due administration of justice. The Applicant adds



that the orders sought are necessary to uphold the rule of law and bring a long-standing matter to finality.

10. Despite service having been effected on the Respondents and counsel for the Respondents being present in court during hearing of the application for contempt of court, the Respondents did not file any response to the application.

Submissions

11. The application was canvassed by way of oral submissions made before the court on 3rd December 2025 only by counsel for the Ex parte Applicant this is despite counsel for the Respondent being present in court. Counsel for the Respondent, Ms. Kosgei on the said date informed the court that she had communicated to her clients the seriousness of the matter but had not received any response on the same. She went ahead to state that as she did not have instructions from her clients she had left it to the court and that any consequences were to attach to the Respondents and not their counsel.
12. Mr. Khatete, counsel for the Ex parte Applicant in his oral submissions argued that the Respondents were fully aware of the orders, and that after this court gave directions on the instant application visits to the County Government have been made seeking to have the relevant officers to comply with the orders, however, that the Respondents remain adamant.
13. Counsel relied on the cases of Shimmers Plaza Limited vs. National Bank of Kenya Limited [2015] eKLR and Miguna Miguna vs. Fred Matiang'i, Cabinet Secretary Ministry of Interior and Co-ordination of National Government & 8 others [2018] eKLR on the powers of the court to punish for contempt of court. On the elements of contempt counsel relied on the case of Samuel M.N. Mweru & Others vs. National Land Commission & 2 others [2020] eKLR.
14. It was the applicant's counsel's submission that all elements of contempt have been met in the instant matter and that as was held by the court in the case of Henry Musemate Murwa vs. Francis Owino, Principal Secretary, Ministry of Public Service, Youth and Gender Affairs & Another [2021] eKLR that personal service of the contemnor is no longer a requirement as knowledge of a court order was sufficient.

Analysis and Determination

15. I have considered the application and supporting affidavit as well as the oral submissions made by counsel for the Applicant. I find the only issue for determination is whether or not the orders sought can issue.
16. The law on contempt is now settled. Court orders are not mere suggestions. They are binding and once issued, every party against whom they are directed is duty-bound to obey them unless and until they are lawfully set aside.
17. 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, it is the accounting officers that the law holds responsible for settling decrees issued by courts of competent jurisdiction. Additionally, disobedience of a court order fundamentally undermines the rule of law, on which the administration of justice is founded.
18. It is not in contention that the Respondents herein were duly served with all the court processes and no evidence has been tendered to show compliance or intention to comply. There is no evidence that the Respondents have sought a stay or appealed the said decision and as such the court's order remains binding upon them.



19. The conduct of the Respondents as is evident even from the sentiments of their counsel during the hearing of the contempt application, that despite communicating the seriousness of this matter to them, no efforts have been made to explain the reason for the delay in settling the decree, amounts to deliberate, reckless and unlawful disobedience of a court order. Courts have on several occasions reiterated that the value of the shilling depreciates daily, and that the continued accrual of interest occasioned by the Respondents' lack of due care imposes an increasing and undue burden on the taxpayer, particularly in a matter such as the one presently before this Court, which involves hundreds of millions of shillings.
20. The law places the duty to settle decrees on the accounting officers. This is what section 21 of the *Government Proceedings Act* provides and there is no contrary evidence that the Chief Officer, Finance is designated by the County Executive Committee Member for Finance to be the accounting officer under the *Public Finance Management Act*, 2012.
21. The County Executive in Charge of Finance is the one under obligation to designate the Accounting Officer who is duty bound to settle decrees and in the absence of such designation, the CECM Finance would be the accounting officer to settle decrees. 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.
22. The Respondents have not made any payments since 12th July 2019 when a part payment of Kshs.250,000,000 was made. There being a valid decree of the court that is yet to be satisfied, the only remedy that the Applicant has is mandamus, which was issued by this court. Disobedience of that decree, now six years after the fact, means being in contempt of court.
23. 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.”
24. 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.’
25. The Respondents have not disputed knowledge of the order of mandamus and neither have they challenged these proceedings from the beginning.
26. The Chief Officer Finance, the 2nd Respondent before this court, being the designated accounting officer, is properly found to be in contempt of Court for willful disobedience of the court order of mandamus issued on 25th February 2019.



27. I hereby direct that the 2nd Respondent does appear before this Court on 25th March, 2026 to mitigate and show cause why she should not be punished for contempt of court in accordance with the law.
28. In view of the ever-increasing burden on the tax payer in these matters, I order that each party shall bear their own costs of the application.
29. I so order.

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

R.E. ABURILI

JUDGE

