



**Republic v County Assembly Service Board, County Government of Homa Bay & another; Kochieng (Ex parte Applicant) (Judicial Review E005 of 2023) [2026] KEHC 371 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 371 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
JUDICIAL REVIEW E005 OF 2023  
OA SEWE, J  
JANUARY 22, 2026**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**COUNTY ASSEMBLY SERVICE BOARD, COUNTY GOVERNMENT OF HOMA BAY ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY ASSEMBLY OF HOMA BAY ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**JOHN LENNOX KOCHIENG ..... EX PARTE APPLICANT**

**RULING**

1. This Judicial Review matter was filed on 14<sup>th</sup> August 2023 by the ex parte applicant, John Lennox Kochieng (hereinafter, “the applicant”) for the purposes of enforcing the Judgment dated 28<sup>th</sup> July 2022. The applicant had filed Homa Bay Civil Case No. 3 of 2019 seeking the following reliefs:
  - (a) An order of specific performance to compel the defendant (1<sup>st</sup> respondent herein) to pay to the plaintiff (applicant) the compensation due to him under the Group Personal Accident insurance, amounting to Kshs. 48,252,925.50 together with interest thereon at 12% from the date of filing the suit until payment in full.
  - (b) Such further or other alternative relief as the Court deemed fit to grant.
2. Upon being granted leave, the applicant filed a substantive application dated 14<sup>th</sup> August 2023 seeking an Order of Mandamus directed at the 2<sup>nd</sup> respondent, compelling him to pay the applicant the decretal amount together with costs awarded in Homa Bay HCCC No. 3 of 2019, then amounting to Kshs. 72,379,388.25 plus the taxed costs. Although the respondents filed a preliminary objection and an



interlocutory application, the same were variously overruled vide the rulings dated 22<sup>nd</sup> November 2023 and 15<sup>th</sup> May 2024. The respondent also filed Notices of Appeal in respect of the rulings aforementioned.

3. Having perused the documents on the file, it is disconcerting that the applicant has prosecuted his application in such a convoluted manner that it is impossible to proceed on the merits of the application. When he filed the substantive application dated 14<sup>th</sup> August 2023, the applicant had not applied for or obtained a Certificate of Order or Certificate of Costs against the Government as contemplated by Section 21 of the *Government Proceedings Act* and Order 29 of the Civil Procedure Rules.
4. After the respondents raised this anomaly by way of a Preliminary Objection, the applicant purported to file another application dated 3<sup>rd</sup> December 2024, but what is on record is not an application but a Certificate of Urgency accompanied by an Affidavit Supporting the Certificate of Urgency, to which the applicant annexed a copy of the Judgment dated 28<sup>th</sup> July 2022, a Certificate of Order against the Government dated 19<sup>th</sup> September 2024, as well as copies of the Notice of Motion dated 14<sup>th</sup> August 2023, among other documents. The respondents opposed the applicant's attempts to introduce the critical documents by way of an Affidavit in Support of a Certificate of Urgency and without leave.
5. Thereafter, the applicant filed what is expressed to be an ex parte application for leave to discontinue the suit. The document is dated 4<sup>th</sup> June 2025 and is simply a plain request for leave to discontinue suit.
6. In the circumstances, it is in the interest of justice to allow what ought to have been a Notice of Withdrawal, to enable the applicant file a competent application for consideration on the merits. Accordingly, this Judicial Review matter is hereby marked as withdrawn with no order as to costs and the file marked closed.

It is so ordered.

7. DATED, SIGNED AND DELIVERED VIRTUALLY AT HOMA BAY THIS 22<sup>ND</sup> DAY OF JANUARY 2026

**OLGA SEWE**

**JUDGE**

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