



Republic v Kenya Wildlife Service & 2 others; Kalamba (Ex parte) (Judicial Review Miscellaneous Application E001 of 2025) [2026] KEHC 589 (KLR) (29 January 2026) (Judgment)

Neutral citation: [2026] KEHC 589 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VOI
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E001 OF 2025
AN ONGERI, J
JANUARY 29, 2026
IN THE MATTER OF: AN APPLICATION FOR
JUDICIAL REVIEW (ORDERS OF MANDAMUS)
AND
IN THE MATTER OF: THE CONSTITUTION OF KENYA 2010
AND
IN THE MATTER OF: THE WILDLIFE CONSERVATION
AND MANAGEMENT ACT NO. 47 OF 2013 LAWS OF KENYA**

BETWEEN

REPUBLIC APPLICANT

AND

KENYA WILDLIFE SERVICE 1ST RESPONDENT

**COUNTY WILDLIFE COMPENSATION COMMITTEE, KENYA WILDLIFE
SERVICE 2ND RESPONDENT**

**MINISTERIAL WILDLIFE COMPENSATION COMMITTEE 3RD
RESPONDENT**

AND

ISAAC KALAMBA EX PARTE



JUDGMENT

1. The Ex parte Applicant ISAAC KALAMBA filed the application dated 18th March 2025 against the following Respondents:-
 - i. Kenya Wildlife Service (KWS) Taita Taveta
 - ii. County Wildlife Compensation Committee
 - iii. Ministerial Wildlife Compensation Committee seeking an order of Mandamus to be issued to compel the Respondents and especially the 1st Respondent to pay the Ex parte Applicant a sum of Kshs. 3,000,000/=
2. The grounds upon which compensation is sought are as follows:-
 - i. That the Ex Parte Applicant is the victim of the wildlife attack.
 - ii. That on 14.09.2016, the Ex Parte Applicant was viciously attacked by a crocodile occasioning her grievous injuries as a result of the 1st Respondent's negligence and breach of statutory duty as governed by provisions of the *Wildlife Conservation and Management Act* No. 47 of 2013.
 - iii. That the Ex Parte Applicant reported the matter to the police, the chief and the 1st Respondent.
 - iv. That the 1st Respondent, officers came and took the details and promised to compensate the Ex-Parte Applicant for the injuries.
 - v. That the Ex Parte Applicant thereafter applied for compensation by filing the claim form provided by the 1st Respondent.
 - vi. That in spite of the National Treasury allocating funds for purposes of the said compensation, the Ex parte Applicant is yet to receive the compensation.
 - vii. That the Ex parte Applicant has on various occasions made a follow up on the compensation but the 1st Respondent has not been forthcoming with feedback and has been taking her round in circles.
 - viii. That the Ex parte Applicant has now waited for eight (8) years and the Respondents are yet to make good the compensation even after requisite meetings and approval of the claim by relevant committees.
 - ix. That the Respondents continue to unjustifiably delay the compensation without any plausible explanation.
 - x. That this application is meritorious and has been brought without unreasonable delay.
 - xi. That the Ex parte Applicant is apprehensive that unless this court intervenes and compels the Respondents to act on their decision and settle the claim, the Respondents will continue to ignore the Applicant's demands for compensation and thus corrode and erode the confidence of the Applicant and the general public in the efficiency of the administrative process of Kenya.
 - xii. That it is therefore important that this matter be heard as a matter of urgency for just and expeditious disposal.
 - xiii. That it is just, fair and equitable that the Orders sought herein be granted to the Applicant.



3. The 1st Respondent filed a Replying Affidavit sworn by Joyce Thirikwa on 17th June 2025 as follows:-
- i. That I am the 1st Respondent's Legal Officer, fully conversant with the facts of this case and with the authority to act on behalf of the 1st Respondent thus competent to make this affidavit.
 - ii. That I have read and understood the Notice of Motion application dated 18th March 2025, the Statutory Statement dated 15th January 2025, the Verifying Affidavit of Isaac Kalimba dated 15th January 2024 and the annexures thereto and in response wish to state as follows.
 - iii. That the application is fatally defective and bad in law as it seeks to compel the 1st Respondent to enforce an award that does not exist.
 - iv. That the application is fatally defective and bad in law as it seeks to compel the 1st Respondent to do that which is not within the 1st Respondent's mandate.
 - v. That the 1st Respondent is established under Section 6 of the *Wildlife Conservation and Management Act*, 2013 and its functions are provided for under Section 7 of the Act.
 - vi. That it is not the duty of the 1st Respondent under Section 7 of the *Wildlife Conservation and Management Act*, 2013 and it is not within the Respondent's statutory mandate to compensate the ex parte Applicant.
 - vii. That the 2nd Respondent, the Taita Taveta County Wildlife Conservation Committee as established under Section 18 of the *Wildlife Conservation and Management Act*, 2013 (herein after referred to as WCMA) is mandated to review and recommend payment of compensation on claims resulting from loss or damage caused by wildlife under Sections 19(1) and 25(2) of the WCMA.
 - viii. That the 1st Respondent is only the secretary to the County Wildlife Conservation Committee established under Section 18 of the *Wildlife Conservation and Management Act*, 2013.
 - ix. That the Ex parte Applicant reported to the 1st Respondent's Taita Taveta Station, an incident of an alleged attack by a Crocodile causing injuries to Isaac Kalamba.
 - x. That the Ex parte Applicant was issued with claim compensation forms from the Ministry of Tourism and Wildlife, by the 1st Respondent for information and processing.
 - xi. That the Taita Taveta County Wildlife Conservation Committee (CWCC) sat and deliberated on the claim on 26th May 2017 where the Ex parte Applicant was awarded Kshs. 500,000.
 - xii. That the matter was then placed before the Ministerial Wildlife Compensation Committee was rejected on 24th April 2019 due to inconsistencies in the date of incident as recorded in the various documentation.
 - xiii. That the said claim was therefore rejected in toto.
 - xiv. That in case he was aggrieved by the decision of the committees, the ex parte applicant has never lodged any appeal as would have been required by Section 25 (6) of the WCMA.
 - xv. That Section 25(3) of the *Wildlife Conservation and Management Act* places the role of payment of compensation squarely on the Cabinet Secretary, Ministry of Tourism and Wildlife.
 - xvi. That in effect, the Ex parte Applicant is asking this Honourable Court to disregard Section 25(6) of the WCMA.



- xvii. That even if such recommendation by the County Wildlife Compensation Committee was upheld by the Ministerial Wildlife Compensation Committee, which it was not, the Ex Parte Applicant is asking this Honourable Court to ignore the strict provisions of Sections 25(3) of the WCMA and in total contravention of this provision, compel the 1st Respondent to pay compensation.
 - xviii. That it is not the 1st Respondent's duty to compensate the Applicant and by the Ex Parte Applicant moving this Honourable Court to compel the 1st Respondent to make such payments, the Ex Parte Applicant is urging this Court to act beyond its powers and such reliefs if granted, would amount to an illegality.
 - xix. That the Ex Parte Applicant is asking this Honourable Court to impose on the 1st Respondent a duty which has not only not been statutorily bestowed upon the 1st Respondent but is in fact a preserve of another entity, the Cabinet Secretary, Ministry of Tourism and Wildlife.
 - xx. That what the Ex Parte Applicant is asking of this Honourable Court through the reliefs sought, is tantamount to amendment of legislation through imposition of a duty.
 - xxi. That the application is not merited as against the 1st Respondent or any other Respondent herein since the Claim by the Ex Parte Applicant was dismissed in toto and the application should therefore be dismissed with costs.
4. The parties filed written submissions as follows; The Ex Parte Applicant submits that this Court should grant an order of mandamus compelling the Kenya Wildlife Service, the 1st Respondent, to release the sum of Kshs. 500,000 as compensation for injuries sustained in a crocodile attack on 14th September 2016.
 5. The Applicant, a victim of wildlife attack, followed the statutory procedure prescribed by the [Wildlife Conservation and Management Act, 2013](#).
 6. The relevant County Committee reviewed and recommended his claim, which was subsequently approved for Kshs. 500,000 by the Ministerial Wildlife Compensation Committee.
 7. Despite this approval and repeated follow-ups over eight years, the 1st Respondent has failed to disburse the awarded compensation.
 8. The 1st Respondent's statutory mandate under the Act to manage and conserve national parks and wildlife carries with it the attendant legal responsibility to compensate individuals for injury or loss caused by wildlife.
 9. This principle is firmly established by superior courts, including the Court of Appeal and the Supreme Court, which have held that the duty of management includes the obligation to shoulder claims arising from wildlife damage.
 10. The internal mechanism for compensation under Section 25 of the Act has been conclusively completed in the Applicant's favour, leaving no discretion but to effect payment.
 11. The Respondent's prolonged failure to comply with its own determined obligation constitutes a clear dereliction of a public duty warranting judicial intervention.
 12. Recent and consistent jurisprudence from the High Court confirms that a judicial review remedy of mandamus is appropriate in identical circumstances to compel payment of statutorily approved compensation awards.



13. The Applicant has demonstrated a clear legal right to the compensation, a corresponding public duty on the part of the 1st Respondent to pay, and a sustained failure to perform that duty despite demand.
14. Consequently, the order of mandamus is necessary to compel performance and to uphold confidence in the administrative process.
15. The Applicant therefore prays for the order as sought, with costs.
16. The 1st Respondent, the Kenya Wildlife Service (KWS), submitted that the that the judicial review application for an order of mandamus is misconceived and should be dismissed.
17. The 1st Respondent contends that it is not the proper party to this suit, as it lacks the legal mandate and financial capacity to settle the Ex-parte Applicant's compensation claim.
18. The claim, stemming from a crocodile attack in 2016, was processed by the County Wildlife Compensation Committee (2nd Respondent) and subsequently rejected by the Ministerial Wildlife Compensation Committee (3rd Respondent) due to inconsistencies in the recorded date of the incident.
19. The 1st Respondent clarifies that its role in the compensation process is administrative and facilitative.
20. It receives reports, documents incidents, and acts as the secretary to the County Committee, but it does not deliberate on or approve claims.
21. The statutory duty to review, award, and pay compensation rests squarely with the County and Ministerial Committees, which are entities under the National Government's Ministry of Tourism and Wildlife.
22. Further, that the funds for compensation are established by the government through a separate Wildlife Compensation Scheme under the Ministry, not through the 1st Respondent's own budget.
23. Furthermore, the 1st Respondent argues that the Ex-parte Applicant has pursued the wrong legal remedy.
24. Since the Ministerial Committee made a definitive decision to reject the claim, the Applicant's recourse was to appeal that decision to the National Environment Tribunal as provided by law.
25. By seeking mandamus, the Applicant is improperly asking the High Court to overturn a substantive decision, which is beyond the scope of judicial review.
26. For these reasons, the 1st Respondent asserts that no order can be lawfully issued against it and prays for the application to be dismissed with costs.
27. The issues for determination in this application are as follows;
 - i. Whether the Exparte Applicant has exhausted the statutory mechanisms for challenging the decision of the Ministerial Wildlife Compensation Committee;
 - ii. Whether the 1st Respondent, the Kenya Wildlife Service, bears the statutory or legal duty to pay compensation for human-wildlife conflict; and
 - iii. Whether the Exparte Applicant has met the legal prerequisites for the grant of an order of mandamus to compel the payment of the alleged compensation award.
28. On the first issue, the material presented reveals a fundamental contradiction in the Exparte Applicant's case.



29. The Applicant asserts that his claim was approved for Kshs. 500,000 by the relevant committees, while the 1st Respondent has produced compelling evidence, which remains uncontroverted, that the Ministerial Wildlife Compensation Committee rejected the claim in toto on 24th April 2019 due to inconsistencies in the documentation.
30. The statutory framework under the *Wildlife Conservation and Management Act* No. 47 of 2013 provides a clear appeal path from such a decision. Section 25(6) of the Act stipulates that any person aggrieved by a decision of the Ministerial Wildlife Compensation Committee may appeal to the National Environment Tribunal.
31. The Exparte Applicant did not avail himself of this statutory remedy. The established principle in Kenyan administrative law is that where a specific appeal mechanism is provided by statute, it must be exhausted before resorting to judicial review, as the latter is a remedy of last resort.
32. Judicial review is concerned with the process of decision-making, not the merits of the decision itself.
33. By failing to appeal the Committee's substantive decision to reject his claim, the Applicant has not only bypassed the designated forum but is now improperly seeking from this court, under the guise of mandamus, an order that would effectively overturn that decision and compel payment of a non-existent award.
34. This court cannot, through judicial review, assume the appellate function of the National Environment Tribunal.
35. Regarding the second issue, the locus of the duty to pay compensation is unequivocally established by the Act.
36. The 1st Respondent's role is clearly delineated under Sections 6 and 7 of the *Wildlife Conservation and Management Act*, which relate to the conservation and management of wildlife, but not the disbursement of compensation.
37. The compensation regime is separately established under Part V of the Act.
38. Section 25(3) provides that "The Cabinet Secretary shall pay compensation..." This duty is vested in the Cabinet Secretary for the time being responsible for wildlife.
39. The preparatory and recommendatory roles are assigned to the County and Ministerial Committees, as outlined in Sections 19 and 25.
40. The 1st Respondent correctly states that its role is secretarial and facilitative to the County Committee.
41. While superior courts have indeed recognized that the management duty of KWS carries with it attendant responsibilities, this does not transmute into a direct statutory duty to pay compensation where the Act explicitly assigns that duty to another entity.
42. To issue an order of mandamus against the 1st Respondent for a duty it does not possess would be to compel an illegality, as rightly submitted by the Respondent.
43. Consequently, on the third and final issue, the Exparte Applicant has failed to satisfy the essential conditions for the grant of mandamus.
44. For the remedy of mandamus to issue, the applicant must demonstrate a clear legal right to the performance of a public duty, a corresponding unequivocal duty imposed on the respondent to act, and a demand for action that has been refused or ignored.



- 45. In the instant case, the Applicant has not shown a clear legal right to the claimed Kshs. 500,000, as the competent statutory body rejected his claim.
- 46. Further, he has failed to demonstrate that the 1st Respondent is under any unequivocal public duty to pay him compensation.
- 47. The duty lies elsewhere, with the Cabinet Secretary. Furthermore, the prolonged delay, while regrettable, stems from a final administrative decision which the Applicant chose not to challenge through the proper channels.
- 48. Judicial review cannot fill the void left by the failure to exhaust a statutory appeal.
- 49. In conclusion, the application is fundamentally flawed. It seeks to enforce a compensation award that was not granted and to compel a party that lacks the legal mandate to pay.
- 50. The Exparte Applicant’s proper recourse was an appeal to the National Environment Tribunal, a path he did not take.
- 51. This court, exercising its supervisory jurisdiction in judicial review, cannot usurp the function of the Tribunal nor rewrite the statutory scheme established by Parliament.
- 52. The application for an order of mandamus is therefore without merit and is hereby dismissed.
- 53. Each party shall bear its own costs.

DATED, SIGNED AND DELIVERED THIS 29TH DAY OF JANUARY 2026 VIRTUALLY VIA MT TEAMS AT VOI HIGH C COURT.

ASENATH ONGERI

JUDGE

In the presence of:-

Court Assistant: Millicent/Mabishi

-for the Applicant
-for the Respondents
-for the Ex-Parte Applicant

