

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT SIAYA
JUDICIAL REVIEW MISC. NO. E009 OF 2025

REPUBLIC.....APPLICANT

VERSUS

KENYA WILDLIFE SERVICE1ST
RESPONDENT

MINISTRY OF TOURISM AND
WILDLIFE.....2ND
RESPONDENT

VIOLET MUGENI, MARY TATU & ROBERT

ONYANGO (Suing as the legal representative
and the Administrator of the Estate of Godfrey

Onyango Odwory - Deceased)EXPARTE
APPLICANTS

RULING

1. The Applicants filed the present application dated 19th September 2025 seeking for an order of Mandamus to compel the Respondents especially the 1st Respondent to release Ksh5,000,000/= as compensation for the fatal

injuries suffered by the deceased after being attacked and injured by wildlife within fourteen days from the date of service of the order of mandamus, costs and further incidentals to his application.

2. The application is supported by the supporting affidavit of one of the Exparte Applicant **one Elizabeth Kadogo Maugo** sworn on even dates which states inter alia; that the Exparte Applicants are the legal representative of the deceased, **Godfrey Onyango Odwory**; that on 16th January 2017, the deceased was viciously attacked by a hippo while fishing at lake Victoria within Busembe Sub Location occasioning him fatal injuries as a result of the 1st Respondent's negligence and breach of statutory duty as governed by the provisions of the Wildlife Conservation and Management Act No. 47 of 2013; that the Exparte Applicants reported the matter at Sio- Port police station and that the 1st Respondent's Officers came and took the details and promised to compensate them for the death of their kin; that the exparte applicants thereafter applied for compensation by filing the claim form provided by the 1st Respondent; that the 1st Respondent convened a meeting of a Community Wildlife Conservation Committee (MWCC) that validates and approves payment of the awards by the aforesaid committee; that on following up at the Kenya Wildlife office in Busia County the Exparte Applicants were informed that the Ministerial Wildlife Compensation Committee had approved the award of Kshs5,000,000/= for

settlement of the claim; that in spite of the foregoing, they are yet to receive the compensation resulting from the death of their kin; that the Exparte Applicants have on various occasions made a follow up on the compensation but the 1st Respondent has not been forthcoming and has been taking them round in circles; that the Exparte Applicants have now waited for close to 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; that the Respondents continue to unjustifiably delay the compensation without any plausible explanation; that this application is meritorious and has been brought without unreasonable delay; that the Exparte Applicants are apprehensive that unless this court intervenes and compels the Respondent to act on their decision and settle the claim, the Respondent will continue to ignore the Applicants' demand for compensation and thus corrode and erode the confidence of the Applicants and the general public in the efficiency of the administrative process of Kenya; that it is therefore important that this matter be heard as a matter of urgency for just and expeditious disposal and that it is just, fair and equitable that the orders sought herein be granted to the Applicants.

3. The application was opposed by the 1st Respondent who filed a replying affidavit dated 21st November 2025 sworn by Amos Nyaoro and who deponed inter alia; that he is warden of the 1st Respondent stationed within Western Conservation

area fully conversant with the facts of the case; that the Applicants averments are misleading and false; that the Claimants pursued the procedure laid down in Section 25 of the EMCA 2013 after the demise of the deceased culminating in approval of Kshs5,000,000/=; that the next of kin Violet Mugeni has since been allocated a portion of the approved compensation amounting to Ksh1,484,000/= being the first instalment payment directly to the claimant's account; that the alleged delay in compensation is not a result of the 1st Respondents inaction but a possible technical error considering the window that claimants herein provided two separate bank account numbers instead of just one as a result of which the remittance system was not successful; that once rectified, the part payment shall be made awaiting the next tranche of payments due in April 2026.

4. The application was canvassed by way of written submissions. Both parties duly filed and exchanged submissions. The Applicant's submissions are dated 19th January 2026 whereas the 1st Respondent's submissions are dated. 1st February 2026.
5. I have considered the application, rival affidavits as well as the rival submissions. It is not in dispute that the Applicant's request for compensation has already been vetted and approved by the Ministerial Wildlife Compensation Committee in the sum of Ksh 5,000,000/= and that a part payment has been made in the sum of Ksh1,484,000/= with

the balance thereof being awaited in the month of April 2026. The issue for determination is whether the application has merit.

6. The Applicants are the legal representatives of the deceased who was killed by a hippo while conducting fishing near Lake Victoria.

The Applicant's submissions are that; through his advocate filed an application dated 19th September 2025 having been granted leave to do so by this court which seeks for an order of mandamus to compel the Respondents and especially the Respondent to release the sum of Ksh5,000,000/= to the Exparte Applicants' Advocate as outlined on the grounds in support of the application.

The issues for determination are as follows: -

- a) Whether the 1st Respondent is statutorily bound to manage parks and reserves.
- b) Whether the Respondent is mandated to compensate the Exparte applicant.
- c) *What are the timelines within which the Applicant's claim should be settled*
- d) Whether the Exparte Applicant is entitled to the orders of mandamus.

7. **On the 1st issue**, of whether the Respondent is statutorily bound to manage national parks and reserves, according to

the Wildlife Conservation and Management Act, 2013 Section 6 and 7.

“7, the function of the Service shall be to-

- a) Conserve and manage national parks, wildlife conservation areas, and sanctuaries under its jurisdiction;
- b) Provide security for wild life and visitors in national parks, wildlife conservation areas and sanctuaries;

The legal capacity and the mandate of the Respondent with regards to this case is clear from the above provisions. Amongst them includes management of the National parks, Wildlife Conservation areas and sanctuaries under its jurisdiction. This would imply that he Respondent has a statutory mandate to control wildlife.

8. On the second issue on whether the Respondent has the mandate to compensate the Exparte Applicant, it is worth noting that having established that the Respondent has the mandate to control wild life under the Act with the attendant duty to compensate the Claimant within 60 days from the date of reporting, the next question would be whether they are charged with the responsibility of compensation for claims made under the Act. In answering this question, we will outline the procedure to be followed for payment of damages by a Claimant who opts to pursue a claim under the Act as was done by the ex parte applicant. The same is

outlined under **Section 25 of the Act** which provides as follows:

Section 25

- 1) **Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the personal representatives or successor or assign, may launch a claim to the County Wild life Conservation and Compensation Committee** within the jurisdiction established under this Act.
- 2) **The County Wildlife Conservation and Compensation Committee established under Section 18 shall verify a claim made under Section 18 shall verify a claim made under sub section (1) and upon verification, submit the claim t the cabinet secretary together with its recommendation.**
- 3) The Cabinet Secretary shall consider the recommendations made under sub section (2) and where appropriate pay compensation to the claimant as follows: -
 - a) In the case of death, five million shillings.

b) In the case of injury occasioning permanent disability, three million shillings.

c) In case of any other injury, a maximum of two million shillings, depending on the extent of the injury.

9. Counsel placed reliance in the Court of Appeal case of **Kenya Wildlife Service vs. Joseph Musyoki Kalonzo [2017] eKLR**, where the court reinstated that the duty to manage the National parks and reserves comes with the attendant responsibility to shoulder claims arising out of loss, injury or damage caused to property and human life by wildlife and which stipulated as follows on the issue: -

“The Appellant admits the duty to manage and conserve wildlife. That duty comes with the attendant responsibility to shoulder any claim of loss or damage caused by the breach of that duty.

10. Also, in the case of **Joseph Boro Ngera & Supaduka Nakuru Vs. Kenya Wildlife Service Civil Appeal NO. 71 of 1997**. The Appellate Court observed that the duty to manage national parks and reserves comes with the attendant responsibility to shoulder claims arising out of loss, injury or damage to property and human life. Therefore, it is the duty of the 1st Respondent to compensate the Applicant.

The law on the point as succinctly pronounced in **Joseph Boru Ngera & Another vs. Kenya Wildlife Service vs. Rift Valley Agricultural Contractors Limited (2014)** eKLR where the Court stated: -

“The cabinet secretary referred to in the Act pays money on behalf of the appellant. Neither the court nor the parties should concern themselves with the internal arrangements of the appellant as to whether it is the CEO of the appellant or the Cabinet Secretary who should disburse the money.”

Again, The Supreme Court in **Kenya Wildlife Service - Vs. Rift Valley Agricultural Contractors Limited, Supreme Court Petition No. 11 of 2015 (2018)** eKLR stated as follows at paragraph 66:

“A global comparison of laws and jurisprudence relating to animal and wildlife management normally provide that an entity charged with such a management task also collects the revenues generated from activities relating to the same. The rationale being that such revenue supports the costs of

management and any related outcomes, including compensation for damage made by animals and wildlife.... The Wild life Act gives responsibility to Kenya Wildlife Service as the park revenue collector to compensate for damages occasioned by wild animals.

Counsel further stated in view of the foregoing, it is evident that the duty to pay compensation has been positively determined by the Court of Appeal and the Supreme Court, it was therefore submitted that the Respondent is liable to compensate the ex parte Applicant; the applicant's claim having been approved following the laid down procedures under Section 25 of the **Wildlife Conservation and Management Act** as stated above. The Respondent therefore owes the applicant the amount of **Ksh5,000,000/=** as compensation for the fatal injury of her next of kin.

- 11. The third issue is whether the Expate Applicant is entitled to the order of mandamus,** it is noted that the Applicant has moved this court to compel the Respondents to satisfy a recommendation by the relevant compensation committees as compensation for the death of her next of kin in the sum of Kshs5000,000/=. That it is not in dispute both the County Ministerial Wild Life Compensation Committee recommended for compensation in the sum of Kshs5,000,000/= to the exparte Applicant as provided for under Section 25 of the Act. Counsel further submitted that

the Respondent has however failed to fulfil the said recommendation despite several follow ups by the ex parte Applicant and which has prompted the filing of the present application for mandamus.

12. **The fourth issue**, whether the Exparte Applicant is entitled to the order of mandamus, in the present application, the Exparte Applicant has moved this Honourable Court to compel the Respondents, particularly 1st Respondent to satisfy a recommendation by the 2nd Respondent and approved by the 3rd Respondent as compensation for the death of her husband in the sum of **Ksh. 5,000,000/=**; it is not disputed that the said claim was to be settled within 60 days as per the Regulations enacted under the Wildlife Conservation and Management Act of 2017. It is 8 years since the claim was reported and over 4 years since the compensation was approved; that the 1st Respondent has failed to satisfy the said recommendation despite several follow ups by the ex parte Applicant prompting him to file the present application for mandamus.

Reliance was placed in the case of **Kenya Wildlife Service vs. Awuor (Civil Appeal E013 of 2022) (2023) KEHC 3721 (KLR) (26 April 2023) (Judgment)** and **Kenya Wildlife Service vs Abraham M'ngai M'tumitu [2021] Eklr** which held as follows:

“clearly the appellant having awarded amount under the Act, further intervention in court could only have been by the appeal process following upon the

*provision of the section, that is to say through the mechanism of a first appeal court. the respondent may have opted to pursue its claim for compensation in negligence for damages for personal injury in the civil court as an alternative to the statutory compensation mechanism. Without deciding, **I would consider that the respondent may also have pursued judicial review remedy in the High Court, if so advised by his advocates, for the award of the full award of compensation prescribed under the Act.** The respondent may also, as he may be advised by his legal advisors, file an application for extension of time to pursue the appeal process set out in **Section 25 (6) of the Act.**"*

Again, in the case of **Republic v Kenya Wildlife Service & 2 Others, Muhia (Exparte Applicant) (Judicial Review Application E003 of 20204) KEHC 8086 KLR** where the High Court faced with a similar application as the present one in Court and relying on the above authorities held that he Ex parte Applicant was within her right to file the Judicial Review Application. The court went ahead and granted the Application for an order of mandamus compelling the 1st Respondent to pay the amount of 5,000,000/= as compensation for the death of the deceased. Also the case of Salonik Murunya Parmuai Vs Kenya Wildlife Service and County Wildlife Compensation Committee Narok High Court JR No. E002 of 2024 where the court faced with a similar case like the

present one held that the Exparte Applicant was within his right to file Judicial Review application for an order of mandamus compelling the Respondent (KWS) to pay the sum of Kshs 5,000,000/ as compensation for the death of the deceased. In light of the foregoing cases, and Regulations, it is submitted that the exparte applicants are within their right to file the instant judicial review to enforce the compensation.; it is concluded that, the exparte Applicants have shown that the Wildlife Conservation and Management Committee recommended for compensation in the sum of Ksh5,000,000/= for the death of the deceased as provided for under **Section 25 of the Act**. Having established that the 1st Respondent's duty to manage and conserve wildlife comes with the attendant responsibility to shoulder any claim of loss or damage caused by the breach of that duty, it is the ex parte Applicant's case that the 1st Respondent has failed to satisfy the recommendation for compensation within 60 days from reporting of the claim as per the Regulations. It was finally submitted that the ex parte Applicant is entitled to the order of mandamus as sought in the application before this court; that the cost of the application be awarded to the Exparte Applicant.

13. The 1st Respondent vide submissions dated 1st February 2026 raised two issues for determination namely whether the relief of mandamus lies where an administrative body has substantially undertaken its duty without supervision

and secondly, whether the 1st Respondent is a proper party in this proceeding and if so, whether the orders sought against it are available to the exparte Applicants.

14. As regards the 1st issue, learned counsel submitted that pursuant to the replying affidavit of Amos Nyaoro, the claim has been deliberated upon by two committees prescribed under Section 25 of the Wildlife Conservation and Management Act and that the exparte Applicants have since been paid a sum of Kshs999,770/= with the remainder set to be cleared in April 2026 when the next disbursement occurs. It was contended by the counsel that the management on the issue of compensation is so seamless and that it requires no supervision from the court and as such mandamus would not lie in the circumstances since such relief is only applicable where inaction persists.

15. It was also submitted that the purpose of judicial review is to provide a remedy where there is mal-administration and that in the present case the laxity was on the part of the Applicants who failed to provide the relevant information on the account number into which the funds would be remitted and therefore the 1st Respondent should not be blamed. Further, it was contended that the 1st Respondent other than being the secretary to the committee as provided for in Section 18 of the WCMA Act, it does not make decisions regarding human wildlife conflict which is a preserve of the committee and therefore the claim that the 1st Respondent

is responsible for compensation of such claim is utterly misleading.

16. As regards the 2nd issue, learned counsel submitted that the 1st Respondent is an improper party in these proceedings and therefore the relief sought against it cannot be granted. Reliance was placed in the following cases:

i) **Republic v. County Government of Nairobi & 2 others Exparte Kingpot Limited [2021] eKLR** the court stated:

“22. In determining these issues, it is crucial to first lay down the principles that guide the court when dealing with the judicial review remedy of mandamus, which the exparte Applicant is seeking. The Court of Appeal in commission on Administrative Justice vs. Kenya Vision 2030 Delivery Board & 2 Others [2019] eKLR stated as follows:

“ As observed by the Judge and correctly so in our view, the principle that guides the High Court when dealing with the scope and efficacy of an order of mandamus was crystalized by the court in Kenya National Examination Council v Republic Exparte Geoffrey Gathenji Njoroge & 9 Others (supra) namely:

“The order of mandamus is of most extensive remedial nature and is in the form of 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 of 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 special legal right, and it may issue in cases where although there is an alternative remedy, yet the mode of redress is not convenient, beneficial and effectual.”

- ii) ***In Republic v. Kenya Vision 2030 Delivery Board & Another Exparte Eng. Judah Abekah [2015] eKLR***, the court quoted the Court of Appeal decision in Kenya National Examination Council Vs. Republic Exparte Geoffrey Gathenji Njoroge, which quoted paragraph 90 Halsbury’s Law of England 4th Edition Volume 1 at 11:

“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 ten ands 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.”

iii) In Republic v Kenya Vision 2030 Delivery Board & Another Exparte Eng. Judah Abekah [2015] eKLR, the court stated:

In Republic v The Commissioner of Lands and Another ex Parte Kithinji Murugu M’agere, Nairobi High Court Misc. Application No. 395 of 2012, G. V. Odunga, J explored the circumstances under which an order of mandamus can issue. I beg to quote him at length as follows:

A party in a judicial review seeking an order of mandamus must show the existence of a statutory duty conferred or invested by statute upon some person, body of persons or tribunal which such person, body of persons or tribunal has failed to perform. See Republic vs. Registrar of Societies & 5 Others exparte Kenyatta & 6 Others Nairobi HCMCA No. 747 of 2006[2008] 3KLR (EP) 521.

iv) In Republic v. Kenya Vision 2030 Delivery Board Another Exparte Eng. Judah Abekah [2015] eKLR stated:

“From the cited decisions, it is apparent that an order of mandamus will issue to compel the performance of a statutory duty owed to an Applicant. Therefore, the fulcrum of an order of mandamus is that a statutory duty must be owed to an Applicant and the public officer or public body after being asked to perform the duty, has refused or failed to discharge that duty and there is no other adequate remedy.

v) *In Republic v County Government of Nairobi & 2 Others Exparte Kinspot Limited [2021] eKLR*

the Court in declining to grant orders of mandamus against the 3rd Respondent (County Executive Member Land and Urban Planning) stated that the 3rd Respondent not being the accounting officer (who was statutorily bound to satisfy a court decree) had no role in the proceedings and had been improperly joined. The court stated:

“whereas the Exparte Applicant is correct that the 3rd Respondent is Line Minister in matters land, it is apparent that he has no role in this proceeding. This is a case of mis-joinder.”

It was therefore submitted that the 1st Respondent is improperly joined in these proceedings since the duty in question is about compensation for losses and damage caused by wildlife and not the duty to manage wildlife. It was further contended that compensation for claims of loss and damage caused by wildlife is clearly provided for

under Section 24 and 25 of the Act. Section 24 provides as follows:

- “1) The Government shall establish a wildlife compensation scheme...**
- 2) The wildlife compensation scheme shall be used for financing compensation claims for human death or injury or crop and property damage caused by wildlife.**

Section 25 provides:

- 1) Where any person suffers any bodily injury or killed by any wildlife listed under the 3rd schedule, the person injured or in the case of a deceased person, the personal representative or successor or assign, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established thereon.**
- 2) The County Wildlife Conservation and Compensation Committee established under Section 18 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Cabinet Secretary together with its recommendations thereon.**
- 3) The Cabinet Secretary shall consider the recommendations made under subsection (2)**

and where appropriate, pay compensation to the claimant as follows: -

a) in the case of death, five million shillings.

b) in the case of injury occasioning permanent disability, three million shillings.

c) In case of any other injury, a maximum of two million shillings, depending on the extent of the injury.

16. It was finally submitted that the Exparte Applicants are not entitled to the order of mandamus as sought against the 1st Respondent since that duty lies elsewhere. Hence, application should be dismissed with costs to the 1st Respondent.

17. I have considered the application, rival affidavits and submissions of learned counsels. It is not in dispute that the 1st Respondent has since arranged with the Wildlife Conservation and Management Committee and made an initial payment of compensation to the Applicants in the sum of Kshs999,770/= and that the balance is yet to be paid. I find the following issues necessary for determination:

- i) Whether the 1st Respondent is statutorily bound to manage national parks and reserves.
- ii) Whether the 1st Respondent is mandated to compensate the exparte Applicants.

- iii) Whether the exparte Applicants are entitled to the order for mandamus.

18. As regards the first issue, it is noted that learned counsel for the 1st Respondent has admitted that the 1st Respondent is statutorily bound to manage national parks and reserves. The said function is found in Section 7 of the Wildlife Conservation and Management Act which outlines the functions of the Kenya Wildlife Services as follows:

- a) Conserves and manage national park, wildlife conservation areas, and sanctuaries under its authority.
- b) Provide security for wildlife and visitors in national parks, wildlife conservation areas and sanctuaries.

19. From the foregoing provision, it is clear that the 1st Respondent is established to perform key functions namely conserve and manage national parks, wildlife conservation areas and sanctuaries under its jurisdiction as well as provide security for wildlife and visitors in national parks, wildlife conservation areas and sanctuaries. From those duties the 1st Respondent has the sole mandate to manage and control wildlife. Hence, upto that point the exparte Applicants and the 1st Respondent are in agreement that it is the sole mandate of the 1st Respondent to control wildlife in Kenya.

20. Even though the 1st Respondent seems to contend that certain functions have been ceded to other organs, the truth

is that the 1st Respondent is still the entity in charge of all wildlife in the country and that all issues and questions regarding the actions, damage caused by the wildlife must be placed at the doorstep of the 1st Respondent. The Supreme Court, in the case of **Kenya Wildlife Service vs. Rift Valley Agricultural Contractors Limited [2018] eKLR**, held that the Appellant had the statutory duty to control wildlife by dint of Section 3A (1) of the Wildlife Act and held as follows:

The Appellant's obligations under Section 3A(I) could not and were not abdicated in favour of or transferred to Narok County Government. Without belaboring on this point any further, we find that the breach of Section 3A (I) imposes a liability on the Appellant to compensate for destruction of crops by wildlife.

21. As regards the second issue, and as noted in issue (i), the 1st Respondent is mandated to manage national parks, wildlife conservation areas and sanctuaries under its jurisdiction. Flowing from that function, it is also its duty to compensate the exparte Applicants by dint of the provisions of Section 3A and 7 of the Act. Further, the compensation regime is found in Section 25 of the Act which provides for the procedure to be followed for payment of damages by a claimant who opts to pursue his claim under the Act as was done by the exparte Applicants which is as follows:

- “1. Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the personal representatives or successor or assign, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established under this Act.**
- 2. The County Wildlife Conservation and Compensation Committee established under Section 18 shall verify a claim made under Section 18 shall verify a claim made under sub section (1) and upon verification, submit the claim to the cabinet secretary together with its recommendation.**
- 3. The Cabinet Secretary shall consider the recommendations made under sub section (2) and where appropriate pay compensation to the claimant as follows: -**
- a) In the case of death, five million shillings.
 - b) In the case of injury occasioning permanent disability, three million shillings.
 - c) In case of any other injury, a maximum of two million shillings, depending on the extent of the injury.

That it is not in dispute the Applicant's request for compensation has already been vetted and approved by the 2nd and 3rd Respondents in the sum of Kshs5,000,000/=. That the 1st Respondent has maintained that it is not its duty to compensate the Applicant. That under Section 6 and 7 of the Wildlife Conservation and Management Act, 2013, the 1st Respondent has obligations under the Act and cannot therefore run away from them. In the same vein, the duty to compensate victims arising from human-wildlife conflicts is squarely on its shoulders to discharge. Section 25 of the Act provides as follows:

- 1. When anybody suffers any bodily injury or is killed by any wildlife listed under the Third schedule, the person injured, or in the case of a deceased person, the personal representatives or successor or assign, may launch a claim to the County Wildlife Conservation and Compensation Committee within the jurisdiction established under this Act.**
- 2. The County Wildlife Conservation and Compensation Committee set up under Section 18 shall verify a claim made under subsection (1) and upon verification, give the claim to the cabinet secretary together with its recommendation thereon.**

3. The Cabinet Secretary shall consider the recommendations made under subsection (2) and, where proper pay compensation to the claimant as follows:

- a) in the case of death, five million shillings.**
- b) in the case of injury occasioning permanent disability, three million shillings.**
- c) In case of any other injury, a maximum of two million shillings, depending on the extent of the injury.**

Since the 1st Respondent has admitted its duty under Section 7 of the Act namely to manage and conserve wildlife, I find that it is liable under the tort of negligence which incidentally attracts a duty of care on the part of the 1st Respondent to ensure that wildlife do not injure or maim human beings. I find that the 1st Respondent breached that duty of care which led to the death of the deceased. It was the duty of the 1st Respondent to ensure that the animal habitat (lake) was safe to human beings from animal attacks. The Applicants have maintained that the deceased met his death through a fatal attack by a hippo while fishing in the lake and therefore the claim for compensation is legitimate. I find that the 1st Respondent cannot run away from its responsibility to compensate the Applicants

now that they have admitted that they had already started compensating the Applicants with a first payment of Kshs999,770/=. There is therefore no reason why it should not proceed to do the needful by complying with the order of mandamus. This is backed by the foregoing decisions of the courts.

Again, the Court of Appeal has said and reinstated that the duty to manage the National parks and reserves comes with the attendant responsibility to shoulder claims arising out of loss, injury, or damage caused to property and human life by wildlife. See the case of **Wildlife Service Vs. Joseph Musyoki Kalonzo (2017) eKLR**, and **Joseph Boro Negra & Supa Duka Nakuru Vs. Kenya Wildlife Service Civil Appeal No. 71 of 1997**.

Further, in the case of **Kenya Wildlife Service Vs. Rift Valley Agricultural Contractors Limited, Supreme Court Petition No. 11 of 2015 (2018) eKLR** at paragraph 66 stated as follows:

A global comparison of laws and jurisprudence relating to animal and wildlife management normally provides that an entity charged with such a management task also collects the revenues generated from activities relating to the same. The rationale being that such revenue supports the cost of management and any related outcomes, including compensation for damages made by animals and

wildlife....The wildlife Act gives responsibility to Kenya Wildlife Service as the park revenue collector to compensate for damages occasioned by wild animals.

From the foregoing authorities, it is incumbent upon the 1st Respondent to compensate the exparte Applicant since the Applicant's claim had been approved following the laid down procedures under Section 25 of the Wildlife Conservation and Management Act as stated above. The 1st Respondent therefore owes the Applicant the amount of Kshs5000,000/= as compensation for the injury.

22. The court notes that the 1st Respondent has maintained that it has no role to play regarding compensation of the Applicants on the ground that it is supposed to be the cabinet secretary by dint of Section 25(3) of the Act. However, and as noted from the conduct of the 1st Respondent in arranging an initial payment, the exparte Applicants were entitled to approach this court for compensation since they are within their legal rights to seek the enforcement of compensation as a public duty upon the 1st Respondent who owes them an amount Kshs5,000,000/= and who has failed to satisfy the same. It seems the 1st Respondent's objection is a smokescreen meant to evade performing its obligations and therefore it is my view that it has been properly joined into these proceedings.

23. As regards the third issue, the Exparte Applicants have sought for the order of mandamus to compel the 1st Respondent to pay them the amount already ascertained. In the case of **Kenya Wildlife Service Vs. Awuor (Civil Appeal E013 of 2022) [2023] KEHC 3721 (KLR) (26April2023) (Judgment)** and **Kenya Wildlife Service Vs. Abraham Mangai Mitmita [2021] eKLR** the courts held that:

“The Appellant having been awarded an amount under the Act, further intervention in court could only have been by the appeal process following upon the provision of the section, that is to say, through the mechanism of a first appeal to the tribunal and thereafter a second appeal to the Environment and Land Court. The Respondent may have opted to pursue its claim for compensation in negligence for damages for personal injury in the civil court as an alternative to the statutory compensation mechanism. That without deciding, I would consider that the Respondent may also have pursued judicial review remedy in the High Court, if so, advised by his advocates, for the award of the full award of compensation prescribed under the Act. The Respondent may also, as he may be advised, by his legal advisors, file

an application for extension of time to pursue the appeal process set out in Section 25 (6) of the Act.”

Applying the above principles to the present case, the exparte Applicants is within their right to file the instant judicial review to enforce the compensation. Consequently, the 1st Respondent has failed to compensate exparte Applicants and now contends that it is the cabinet secretary who ought to make the payments and not themselves. The Court of Appeal in Kenya Wildlife Service vs. Joseph Musyoki Kilonzo (2017) Eklr, stipulated as follows on this issue:

The Appellant admits the duty to manage and conserve wildlife. The duty comes with the attendant responsibility to shoulder any claims of loss or damage caused by the breach of that duty. The law on that point was succinctly pronounced in Joseph Boru Negra & Another vs. Kenya Wildlife Service Vs. Rift Valley Agricultural Contractors Limited [2014] eKLR, among others, is still good law on this point. The cabinet secretary referred to in the Act pays money on behalf of the Appellant. Neither the court nor the parties should concern themselves with the internal arrangements of the Appellant as to whether it is the CEO of

the Appellant or the cabinet secretary who should disburse the money.

It is not in dispute that the 1st Respondent is liable to compensate the ex parte Applicant, and that it is not for them to concern themselves with the internal arrangements of the 1st Respondent as to whether the cabinet secretary should disburse the monies to the Applicants. It is my considered view that the 1st Respondent is liable to compensate the ex parte Applicants and that the Applicants' claim was approved following the laid down procedures under the Wildlife Conservation and Management Act. I find that the Applicants have satisfied this court that the 1st Respondent owes them an amount of Kshs5,000,000/= in the form of compensation for fatal injuries occasioned to the deceased. That Applicants have been compelled to approach the court for redress following the failure of the 1st Respondent to compensate them despite the clear provisions under the relevant Act.

That under the Kenya Subsidiary Legislation 2017, Legal Notice No. 245, published in September 2017, the Minister published the said regulations. Under part IV section 27(1) and (2) the Applicant's claim was to be settled within 60 days of reporting. It is now 8 years since the Claimants reported their claim. Despite the Respondents approving the same for payment of Ksh5,000,000/= eight years ago as has been admitted by the 1st Respondent, the same is still outstanding to date.

24. In view of the foregoing observations, it is my finding that the Applicants' application dated 19th September 2025 has merit. The same is allowed in the following terms:

- a) That the 1st Respondent is hereby compelled by an order of Mandamus to pay Kshs5,000,000/= as compensation for the injuries sustained by exparte Applicants as had been already approved.
- b) That the costs of this application are awarded to the Applicant.

Orders accordingly.

Dated and delivered at Siaya this 27th day of February 2026.

D. KEMEI

JUDGE

In the presence of:

Opondo.....for Applicants.

M/s Walubengo.....for 1st Respondent.

N/A.....for 2nd Respondent.

Maureen.....Court Assistant.

SIAYA HC JUDICIAL REVIEW NO. E003 OF 2024 - RULING