

REPUBLIC OF KENYA

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA
AT MOMBASA**

JUDICIAL REVIEW APPLICATION NO. E001 OF 2026

REPUBLIC
APPLICANT

VERSUS

THE GENERAL MANAGER OF FINANCE,

KENYA PORTS AUTHORITY **1ST**
RESPONDENT

THE CHIEF ACCOUNTANT,

KENYA PORTS AUTHORITY **2ND**
RESPONDENT

MANAGING DIRECTOR,

KENYA PORTS AUTHORITY **3RD**
RESPONDENT

AND

SAIDI OMAR KOMBO **EX PARTE**
APPLICANT

RULING

The ex parte applicant filed an application dated 19 January 2026 under the provisions of Order 53, Rules 1, 2, 3 and 4 of the Civil Procedure Rules, section 8(2) of the Law Reform Act and seeking orders that:

- a) *The court be pleased to issue judicial review orders of mandamus for purposes of compelling and to compel the respondents herein within 30 days of making the said order, to compensate the ex parte applicant as per the court's decision issued on 12 November 2025 for the sum of Ksh. 3,729,227.73, party and party costs of Ksh. 252,614.39 and accrued interests from 2 November 2023 until payment in full.*
- b) *The court be pleased to direct that the respondents fail to comply with the orders of mandamus as per prayer 1 above. Leave do issue to the ex parte applicant to commence garnishee proceedings [against M/s Citi Bank, Mombasa, for account number 300046401] towards execution of this court decree issued on 12 November 2025 for the sum of Ksh. 3,729,227.73, party-party costs of Ksh.*

252,614.39 and accrued interests from 2 November 2025 until payment.

c) Costs of this application be provided for.

The application is supported by the Supporting Affidavit of the ex parte applicant, and on the grounds that he was an employee of the Kenya Ports Authority when he sustained work-related injuries on 2 November 2023. The matter was reported to the Director, Occupational Safety and Health Services, Mombasa, under DOSH/Form 1 and upon assessment, he was awarded Kshs. 3,792,227.73 in compensation.

The ex parte applicant avers that the employer failed to pay within the DOSH timelines, leading him to file with the **Mombasa ELRC Misc. Application E025 of 2025** seeking to enforce the same. On 3 April 2025, the court issued a Decree for the payment of Ksh. 3,729,227.73. Party and party costs of Ksh. 252,614.39 plus accrued interests from 2 November 2023. The draft decree was sent to the respondents who have failed to make payment.

The ex parte applicant has not been paid for his work-related injuries since November 2023. Under section 67 of the Kenya Ports Authority Act, no execution against the Authority by way of attachment and sale is allowed in satisfaction of the Decree. Unless the court directs payment, the ex parte applicant shall not enjoy justice in his work-related compensation awarded by the court.

In his Supporting Affidavit, the ex parte applicant avers that the State Corporations is a service body established under section 3 of the Kenya Ports Authority. Section 67 restricts execution against the property of the Authority unless the Managing Director is directed to pay out of the revenue of the Authority, against the Authority or the persons entitled thereto, the amount as may be ordered by a judgment of the court.

The ex parte applicant had served the Decree and Certificate of Costs upon the Kenya Airports Authority, the 3rd respondent, who was under a statutory and public duty to verify the Decree and Certificate of Costs and compensate the ex parte applicant. The ex parte applicant has the right to protection of the law under Article 27(1) of the Constitution, including the right to enjoy the fruits of his judgment issued by the court in **ELRC Misc. Application E025 of 2025**.

The respondents have acted without justification in failing to make payment to the ex parte applicant; hence, these proceedings should be allowed with costs.

There is no response from the respondents despite service on 22 January 2026, and the Affidavit of Service filed to confirm service.

Determination

The proceedings herein seek to enforce the court's award issued in **ELRC Misc. Application E025 of 2025** for the DOSH award to the ex parte applicant at Ksh. 3,792,227 plus party and party cost and interests from 2 November 2023.

I have retrieved Mombasa **ELRC Misc. E025 of 2025**. On 3 April 2025, the court delivered judgment in the following terms:

The application dated 14 February 2025 is hereby allowed.

The following orders are hereby issued;

a) The sum of Ksh.3,792,227, being the Director's award made on 2 November 2023 is hereby awarded;

b) The respondent shall pay within 30 days from the date hereof, after which the same shall accrue costs from the date of the judgment.

Whereas the court directed the Kenya Ports Authority to pay the ex parte applicant the DOSH award of Ksh. 3,792,227 as awarded on 2 November 2023, costs were awarded from the date of the judgment where there was no payment after 30 days.

The claim for the award, plus party and party costs and interest from 2 November 2023, is patently incorrect. The Decree issued by the court on 3 April 2025, as extracted, does not reflect the court's orders.

Relying on such a decree would be an injustice, despite the respondents' failure to attend court.

Accordingly, a proper Decree of the court upon which the ex parte applicant seeks to rely for these proceedings shall be extracted.

Orders sought herein shall not be issued on this basis.

Application dated 19 January 2026 is hereby struck out. No orders on costs.

Delivered in open court at Mombasa, this 12th day of March 2026.

M. MBARŪ
JUDGE

In the presence of:

Court Assistant: Omar

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