



**Odoyo v Kenya Wildlife Service & 2 others (Judicial Review Miscellaneous Application E004 of 2024) [2026] KEHC 3007 (KLR) (27 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 3007 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT HOMA BAY  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E004 OF 2024**

**OA SEWE, J**

**FEBRUARY 27, 2026**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO FILE AN APPLICATION FOR JUDICIAL REVIEW ORDER OF MANDAMUS**

**AND**

**IN THE MATTER OF ARTICLE 47 & 48 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF SECTION 21 OF THE GOVERNMENT PROCEEDINGS ACT, CAP 40**

**BETWEEN**

**SPHIA ATIENO ODOYO ..... APPLICANT**

**AND**

**KENYA WILDLIFE SERVICE ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY WILDLIFE COMPENSATION COMMITTEE, HOMABAY .... 2<sup>ND</sup> RESPONDENT**

**MINISTERIAL WILDLIFE COMPENSATION COMMITTEE . 3<sup>RD</sup> RESPONDENT**

**RULING**

1. This ruling is in respect of the Chamber Summons dated 18<sup>th</sup> July 2024. The said application was filed by the applicant, Sophia Atieno Odoyo, pursuant to Section 31 of the *Civil Procedure Act*, Cap 21 of the Laws of Kenya and Order 53 Rule 1 of the Civil Procedure Rules, 2010 for the following orders:

- (a) That leave be granted to the applicant to apply for the judicial review order of Mandamus to compel the respondents and especially the 1<sup>st</sup> respondent to pay the applicant the sum of Kshs. 1,000,000/= recommended by the 2<sup>nd</sup> respondent and approved by the 3<sup>rd</sup> respondent



as compensation for the injuries suffered by the minor after being attacked and injured by wildlife.

- (b) That the respondents, especially the 1<sup>st</sup> respondent be ordered to comply by paying the applicant the said sum within 14 days from the date of service of the Order of Mandamus.
  - (c) That costs and further incidentals to the application be provided for.
2. The application was premised on the grounds that on the 11<sup>th</sup> March 2021, the subject minor, Renvin Onyango was viciously attacked by a crocodile while fetching water at River Riana, occasioning her serious injuries. She blamed the attack on the 1<sup>st</sup> respondent's negligence and breach of statutory duty as governed by provisions of the *Wildlife Conservation and Management Act* No. 47 of 2013. The matter was reported to the area Chief, the nearest Police Station and to the 1<sup>st</sup> respondent.
  3. The applicant further averred that 1<sup>st</sup> respondent's officers went to the scene, took their particulars and promised to compensate the minor for injuries sustained. She further stated that she thereafter applied for compensation by filing the claim form provided by the respondent; that the 1<sup>st</sup> respondent convened a meeting of the 2<sup>nd</sup> respondent at which an approval was given for compensation in the sum of Kshs. 1,000,000/= in 2021 but the same has never been paid to her, more than three years down the line.
  4. Accordingly, the 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 her demands for compensation. She accordingly filed the instant application for leave to apply for the judicial review order of Mandamus.
  5. I have given careful consideration to the application, the averments set out in the affidavits filed by the parties including the documents annexed thereto. I have also taken into consideration the submissions made herein by learned counsel.
  6. Order 53 Rule 1 of the Civil Procedure Rules is explicit that the Court has the discretion to either grant such an application ex parte or hear the parties on the prima facie merits thereof. The aforementioned provision states:
    - (1) No application for an order of mandamus, prohibition or certiorari shall be made unless leave therefor has been granted in accordance with this rule.
    - (2) An application for such leave as aforesaid shall be made ex parte to a judge in chambers, and shall be accompanied by a statement setting out the name and description of the applicant, the relief sought, and the grounds on which it is sought, and by affidavits verifying the facts relied on.
    - (3) The judge may, in granting leave, impose such terms as to costs and as to giving security as he thinks fit including cash deposit, bank guarantee or insurance bond from a reputable institution.
    - (4) The grant of leave under this rule to apply for an order of prohibition or an order of certiorari shall, if the judge so directs, operate as a stay of the proceedings in question until the determination of the application, or until the judge orders otherwise:

Provided that where the circumstances so require, the judge may direct that the application be served for hearing inter partes before grant of leave.



Provided further that where the circumstances so require the judge may direct that the question of leave and whether grant of leave shall operate as stay may be heard and determined separately within seven days.”

7. Hence, in Republic v County Council of Kwale & Another, Ex Parte Kondo and 57 others (supra) the court held:

“The purpose of application for leave to apply for Judicial Review is firstly to eliminate at an early stage any applications for Judicial Review which are either frivolous, vexatious or hopeless and secondly to ensure that the applicant is only allowed to proceed to substantive hearing if the court is satisfied that there is a case fit for further consideration. The requirement that leave must be obtained before making an application for Judicial Review is designed to prevent the time of the court being wasted by busy bodies with misguided or trivial complaints or administrative error, and to remove the uncertainty in which public officers and authorities might be left as to whether they could safely proceed with the administrative action while proceedings for Judicial Review of it were actually pending even though misconceived...”

8. There appears to be no dispute that the minor herein was attacked by a crocodile while fetching water at River Riana or that he sustained injuries. There is also no dispute that the matter was brought to the attention of the 1<sup>st</sup> respondent whereupon compensation was recommended by the 2<sup>nd</sup> respondent in the sum of Kshs. 1,000,000/=. The applicant contends that she is yet to receive payment. The applicant has, in the circumstances made out a case fit for further investigations at a full inter partes hearing.

9. In Republic v County Council of Kwale & another (supra) for instance, the Court held:

“Leave may only be granted if on the material available the court is of the view, without going into the matter in depth, that there is an arguable case for granting the relief claimed by the applicant; the test being whether there is a case fit for further investigation at a full inter partes hearing of the substantive application for judicial review. Granting of leave to file for judicial review is an exercise of the court’s discretion but as always it has to be exercised judiciously.”

10. It is therefore my finding that the application dated 18<sup>th</sup> July 2024 is meritorious. The same is hereby allowed and orders granted as follows:

- (a) That leave be and is hereby granted to the applicant to apply for the judicial review order of Mandamus to compel the respondents to pay her the sum of Kshs. 1,000,000/= as recommended by the 2<sup>nd</sup> respondent and approved by the 3<sup>rd</sup> respondent as compensation for the injuries suffered by the minor after being attacked and injured by wildlife.
- (b) The substantive application be filed and served within 3 days from the date hereof.
- (c) That costs of the application be costs in the substantive suit.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT HOMA BAY THIS 27<sup>TH</sup> DAY OF FEBRUARY 2026**

.....  
**OLGA SEWE**



**JUDGE**

