



**Republic v County Government of Machakos; Koto Housing Kenya Limited (Ex parte Applicant) (Judicial Review E041 of 2024) [2026] KEHC 4624 (KLR) (9 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4624 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
JUDICIAL REVIEW E041 OF 2024**

**RC RUTTO, J**

**APRIL 9, 2026**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF MACHAKOS ..... RESPONDENT**

**AND**

**KOTO HOUSING KENYA LIMITED ..... EX PARTE APPLICANT**

**RULING**

1. By Notice of Motion dated 30<sup>th</sup> September 2025, the ex parte applicant has cited Article 169 (1) (d) of *the Constitution*, Section 3A of the *Civil Procedure Act* and rule 39 of the High Court (Organization and Administration (General) Rules seeking the following orders:
  1. ... Spent;
  2. That leave be granted to the ex-parte applicant to institute contempt of court proceedings and summons be issued for personal attendances of Muya Ndambuki (PhD) County Secretary and Head of Public Service and/or any such officer serving as the County Secretary, before the Honorable Court to Show Cause why he should not be cited for contempt of court for disobeying the orders of the Court issued on 19<sup>th</sup> May 2025;
  3. That Muya Ndambuki (PhD) County Secretary and Head of Public Service and/or any such officer serving as the County Secretary, do stand committed to jail for a period as this Honorable Court shall determine for contempt of court orders issued on 19<sup>th</sup> May 2025;
  4. That costs of this application be borne by the contemnors.



2. The application is supported by the grounds on its face and the supporting affidavit of the ex parte applicant's General Manager. The factual background is that by a ruling delivered on 19<sup>th</sup> May 2025, this Court issued an order of mandamus compelling the respondent's County secretary, to satisfy the decree obtained in Machakos CMCC No. E410 of 2023. That order has neither been challenged, varied nor set aside.
3. The applicant avers that the decree and ruling were duly served upon the respondent on 18<sup>th</sup> June 2025. Further, counsel for the ex parte applicant issued reminders through letters dated 25<sup>th</sup> July 2025 and 28<sup>th</sup> August 2025, urging compliance. That despite service and reminders, the respondent has failed to honour the decree.
4. The applicant contends that the respondent's continued refusal to comply amounts to blatant disobedience of court orders, undermines the authority of court, and obstructs the administration of justice. It therefore urges this court to enforce compliance through contempt proceedings.
5. The application was not opposed. At the hearing, the applicant relied entirely on its pleadings and submissions, urging the Court to allow the motion.
6. I have considered the application, the supporting affidavit and the law. The ruling of 19<sup>th</sup> May 2025 was explicit. The Court gave the following orders:

“An order of mandamus is hereby issued to the respondents and is directed to the county secretary, Machakos County Government compelling them to honor and satisfy the judgment and decretal sum made in Machakos Chief Magistrate Civil Case no. E410 of 2023; Koto Housing Kenya Limited vs. Machakos County Government in the sum of Kshs. 4,052,505.50 together with costs of Kshs. 203,037.00 being the decretal sum thereof plus costs and interest at the rate of 12% per annum up to 11<sup>th</sup> January 2024 and until payment in full within the next 90 days from the date of service of this order.

7. From the annexure to the application, the decree dated 11<sup>th</sup> June 2025, was duly served upon the office of the County secretary on 18<sup>th</sup> June 2025. This court is satisfied that personal served was effected. The respondent has neither complied with the decree nor responded to the present application.
8. The law is settled that court orders are binding until set aside. Disobedience of such orders strikes at the heart of the rule of law and the authority of the judiciary. A party cannot choose which orders to obey and which to disregard. The respondent's silence and inaction, despite proper service, amounts to willful disobedience
9. Accordingly, I find merit in the application. The Notice of Motion dated 30<sup>th</sup> September 2025 is allowed in terms of prayer two. The county secretary County Government of Machakos shall appear before this Court on 11<sup>th</sup> June 2026 for mitigation and sentencing. The costs of this application shall be borne by the respondent.
10. It is so ordered.

**DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 9<sup>TH</sup> DAY OF APRIL 2026.**

**RHODA RUTTO**

**JUDGE**

In the presence of;

..... Applicant



..... Respondent

Selina Court Assistant

