

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
NAIROBI

PETITION NO. E074 OF 2025

SAMMY KOLINS MULONGO MAKHANU.....PETITIONER

VERSUS

NAIROBI COUNTY COMMISSIONER.....1ST RESPONDENT

**PAYROLL MASTER (Integrated Payroll &
Personnel Data Base Office), MINISTRY OF INTERIOR
& NATIONAL ADMINISTRATION.....2ND RESPONDENT**

**HUMAN RESOURCE OFFICER,
NAIROBI COUNTY COMMISSIONER'S OFFICE.....3RD RESPONDENT**

**DEPUTY COUNTY COMMISSIONER,
KASARANI SUB-COUNTY, NAIROBI COUNTY.....4TH RESPONDENT**

**DIRECTOR, HUMAN RESOURCE, MINISTRY
OF INTERIOR & NATIONAL ADMINISTRATION.....5TH RESPONDENT**

**PRINCIPAL SECRETARY, STATE DEPARTMENT FOR
INTERNAL SECURITY & NATIONAL ADMINISTRATION,
MINISTRY OF INTERIOR & NATIONAL
ADMINISTRATION.....6TH RESPONDENT**

**MINISTRY OF INTERIOR & NATIONAL
ADMINISTRATION.....7TH RESPONDENT**

THE HONOURABLE ATTORNEY GENERAL.....8TH RESPONDENT

RULING

The Petitioner/Applicant filed a Notice of Motion application dated 31/10/2025 seeking for an order in the following terms:-

(a) Spent

(b) That an order do issue from this honourable court summoning: David S. Wanyonyi (the 1st Respondent), Catherine Sarora (the 2nd Respondent), Rachael Chebet Kandie (the 3rd Respondent), Zipporah W. Mutahi (the 5th Respondent), and Dr. Raymond Omollo (the 6th Respondent) to appear in person and in open court before this honourable court on a date set by it to show cause, why they should not be committed to civil jail for a period of at least six (6) months and/or why a penalty to be determined by this honourable court should not be imposed against them.

(c) That in default, warrants of arrest and committal to civil jail do issue from this honourable court committing the Respondent David S. Wanyonyi (the 1st Respondent), Catherine Sarora (the 2nd Respondent), Rachael Chebet Kandie (the 3rd Respondent), Zipporah W. Mutahi (the 5th Respondent), and Dr. Raymond Omollo (the 6th Respondent) to civil jail for a period of at least six (6) months enforceable by Officer Commanding Station (OCS) Central Police Station Nairobi.

(d) That an order condemning each of the Respondents David S. Wanyonyi (the 1st Respondent), Catherine Sarora (the 2nd Respondent), Rachael Chebet Kandie (the 3rd Respondent), Zipporah W. Mutahi (the 5th Respondent), Dr. Raymond Omollo (the 6th Respondent) to pay a penalty of Kshs. 1,000,000.00 deductible from

their monthly salaries and the same be enforced/complied with by the 2nd, 5th and 6th Respondents.

(e) That an order do issue scheduling the matter herein for mention on a date set by this honourable court for purposes of confirming compliance of the Decree dated 9th October, 2025 by the Respondents.

(f) That any other order that the court deems fit to issue.

(g) That the costs of this application be borne by the Respondents

The application is premised on grounds set out on the face of the Notice of Motion and supported by an affidavit of the Applicant. The nub of the application is that judgment in favour of the Applicant was delivered on 9/10/2025 in the presence of counsel for the Respondents. That on 13/10/2025, the Petitioner served physical copies of the said decree dated 9/10/2025 arising from the judgment of the court.

That the court decree issued on 9/10/2025 is lawful, valid and unambiguous and has never been stayed or set aside. That the Respondents have failed, refused and or neglected to implement the same by reinstating the Petitioner to his position without loss of any benefits.

That the conduct of the Respondents is in contempt of the court order and the application be granted as prayed.

Replying Affidavit

The Respondents filed replying affidavit to the application sworn to on 24/11/2025 by Kepha Onyiso, Deputy Chief State Counsel in the office of the Attorney General presently deployed in the State Department for Internal Security and National Administration.

The deponent states that upon the delivery of the judgment herein, the Respondents filed an appeal in the Court of Appeal vide a Notice of Appeal under Rule 77 of the Court of Appeal Rules, 2022 dated 15/10/2025.

That the Respondent also filed an application for stay of execution of the judgment of the court pending the hearing and determination of the appeal dated 3/11/2025.

That the Respondents application to stay should take precedence over the contempt proceedings.

That in any event, the application is incurably defective for want of formal personal notices to the Respondents.

That the application should therefore be dismissed with costs.

DETERMINATION

The parties have filed written submissions which the court has considered alongside the deposition by the parties.

The proper manner of enforcing a judgment and decree of the court against government as in the case of Nairobi County Commission; the payroll

master; Human Resource Officer and other named government officers is by way of a Judicial Review application seeking executive orders of mandamus to compel the said officers to comply with the orders of the court failing which they may be cited for contempt of court.

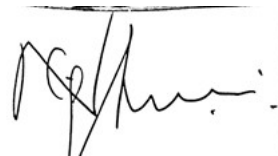
Evidence of personal service of the officers cited for contempt is mandatory.

The Applicant herein seek to cite named government officers without first obtaining an order of mandamus compelling them to satisfy the judgment and the decree of the court. The Applicant has also not demonstrated that this application and the judgment and decree of the court have been served on each of the cited officers by way of affidavit of service.

This application is misconceived and totally defective on the two fronts.

The application is thus dismissed for the aforesaid reasons with no order as to costs.

Dated at Nairobi this 20th day of April 2026



Mathews Nduma

JUDGE

Dated, signed and delivered in open court at Nairobi this 22nd day of April 2026

**Dr. Gakeri J.
JUDGE**

Appearances:

Mr. Makhanu for Petitioner

M/s. Karbolo for Respondents

Mr. Kemboi – Court Assistant

ORIGINAL