

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

JUDICIAL REVIEW NO. E021 OF 2025

JAMES NYANGIYE & OTHERS.....APPLICANTS

VERSUS

THE HON. ATTORNEY GENERAL.....1ST RESPONDENT

**THE PRINCIPAL SECRETARY,
NATIONAL TREASURY.....2ND RESPONDENT**

RULING

The substantive Judicial Review application dated 27/6/2025 was filed pursuant to leave granted on 23/4/2025 by Byram Ongaya J.

The order sought is for mandamus compelling the Honourable Attorney General and the Principal Secretary, National Treasury, to settle the decretal sum of Kshs. 853,310,990.90 together with accrued interest until payment in full.

The application is premised on the statement of facts under Order 53 Rule 1 (2) of the Civil Procedure Rules 2010, the nub of which is that the court delivered judgment on liability on 27/6/2012 and subsequently on quantum on 4/2/2013 and 2/6/2017. A decree was extracted on 12/10/2017 and a certificate of costs issued on 22/7/2020 confirming the total decretal sum of Kshs. 853,310,990.80.

That despite the passage of five (5) years since the certificate of costs was issued and over a decade since the initial judgment, the Respondent have failed and/or refused to satisfy the judgment.

That numerous written demands have been made by the Applicant's Advocates seeking payment and several mentions before the court have occurred wherein the Respondents, particularly the National Treasury gave assurances that the decretal sum would be included in the national budget but the promises have remained unfulfilled.

That the Applicants are now elderly and continue to suffer financial and emotional distress as a result of the prolonged delay in complying with a valid court judgment.

The application is supported by two affidavits of James Mwangi Mutitu affirming the aforesaid position and prays that the application be granted.

The Respondents filed a replying affidavit in which they contend that payment of the decretal sum has been hindered by the various administrative and logistical challenges. That out of a total of 5,131 personal files 2,412 are missing and efforts are ongoing to trace them. That an inter-ministerial committee has been constituted to review and address the matter comprehensively.

That the Respondent intend to implement a phased settlement plan once the administrative processes are concluded.

The court has considered the matter especially the prolonged and painful history in which the Claimant/Applicants having gotten their judgment in the year 2012 continue to await the fruits of their judgment.

While appreciating the explanation by the Respondents, the court can hardly discern a dedicated and genuine effort to bring this matter to a close which undeniably has translated into a case of justice denied by fact of delayed implementation of the judgment of this court sounding in money and which, if implemented will actualise the constitutional rights of the Claimants including, equality before the law, fair labour practices; right to dignity; right to property among others which continued to be violated by the prolonged non-payment of their judgment dues.

This court, upon placing all matters on a scale of justice, cites the case of **Republic v. County Secretary, Nairobi City Council Exparte Wachira Nderitu Ngugi & Co. Advocates in Republic v. Attorney General & another Exparte James Alfred Koroso [2013] eKLR**, where Odunga J (as he then was) stated: -

“An order of mandamus compels a public officer to perform a duty imposed upon him by law. Where a judgment has been entered and a certificate issued and the government fails to pay, mandamus is the only available and efficient remedy.”

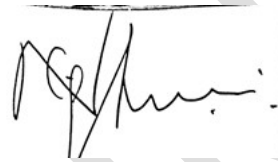
Accordingly, the court grants this application as prayed and makes the following orders: -

(a) An order of mandamus is issued compelling:

- (i) The Honourable Attorney General; and
- (ii) The Principal Secretary, National Treasury, to settle the decretal amount of Kshs. 853,310,990.80 together with accrued interest until payment in full.

(b) Costs of the application

Dated at Nairobi this 14th 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. Andama for Claimant/Applicants

Mr. Muthu for Attorney General

Mr. Kemboi – Court Assistant