



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
(CHERERE-J)

HCJR E005 OF 2025

BETWEEN
REPUBLIC.....
.....APPLICANT
AND
COUNTY GOVERNMENT OF NYAMIRA.....
.....RESPONDENT
AND
EX PARTE: FRANCIS OSUMO NYARIKI.....EXPARTE
APPLICANT

RULING

1. The Ex parte Applicant, Francis Osumo Nyariki, has moved this Court by way of a Notice of Motion dated 02nd February 2026 seeking the issuance of an order of mandamus to compel the County Government of Nyamira to satisfy a decree issued in his favour in Nyamira CMCC 18 of 2020.
2. The application is brought pursuant to Order 53 of the Civil Procedure Rules, Sections 8 and 9 of the Law Reform Act (Cap 26) and Section 21 of the Government Proceedings Act (Cap 40). In essence, the Applicant seeks to compel the Respondent, through its accounting officer, to pay the

decretal sum awarded by the subordinate court together with the costs of the suit and the interest specified in the decree.

3. The background to the application is largely undisputed. The Applicant instituted Nyamira CMCC 18 of 2020 against the County Government of Nyamira seeking compensation for injuries sustained in a road traffic accident involving a motor vehicle belonging to the Respondent. Upon hearing the matter, the trial court delivered judgment on 09th November 2022 in favour of the Applicant and awarded damages in the sum of Kenya Shillings Three Hundred and Fifteen Thousand Two Hundred and Twenty (KES. 315,220).
4. Following the entry of judgment, the costs of the suit were assessed and certified in the sum of Kenya Shillings Ninety-Eight Thousand One Hundred and Seventy-Five (KES. 98,175).
5. A decree was subsequently drawn and the Applicant obtained a Certificate of Order Against the Government pursuant to Section 21 of the Government Proceedings Act confirming the sums payable under the judgment.
6. The certificate specifies that the decretal sum of Kshs 315,220 attracts interest at the rate of 12% per annum from 09th November 2022 until payment in full, while the assessed

costs of Kshs 98,175 attract interest at the rate of 14% per annum from 04th February 2020 until payment in full.

7. The Applicant states that the decree, certificate of costs and certificate of order against the Government were served upon the Respondent through the Office of the County Attorney of the County Government of Nyamira together with a formal demand requiring settlement of the decretal sum. The documents were transmitted through a letter forwarding the decree and certificate of order against the Government and requiring payment of the amounts due under the judgment.
8. Despite service of these documents and the demand for settlement, the Respondent failed to satisfy the judgment debt. It is this failure to comply with the decree that prompted the Applicant to institute these judicial review proceedings seeking an order of mandamus compelling the Respondent to perform the statutory duty imposed upon it by law and satisfy the decree.
9. The Respondent opposed the application through grounds of opposition and written submissions in which it contended that the application is premature and that settlement of public liabilities must comply with the constitutional and statutory framework governing public finance.

10. I have carefully considered the Notice of Motion, the affidavits filed in support thereof, the grounds of opposition and the written submissions of the parties. The issue that arises for determination is whether the Applicant has satisfied the legal threshold for the grant of an order of mandamus compelling the Respondent to satisfy the decree issued in Nyamira CMCC No. 18 of 2020.
11. The legal principles governing the remedy of mandamus are well settled. Mandamus is a judicial order issued to compel the performance of a public duty imposed by law where the authority responsible for performing that duty has failed or refused to do so.
12. In their submissions, counsel for the Applicant relied on the decision in **Republic v County Government of Kisii Ex Parte Elijah Ong'ang'a Nyambane (2025) KEHC 16406 (KLR)** where the Court reiterated that once a decree and certificate of order against the Government have been issued and served upon the relevant government entity, the accounting officer becomes under a statutory duty to satisfy the decretal sum.
13. Counsel also relied on the decision of the Court of Appeal **in Republic v Kenya National Examinations Council Ex Parte Gathenji & Others, Civil Appeal No. 234 of 1996**, where the

Court elaborated on the nature and scope of the remedy of mandamus and stated that the order is issued to compel the performance of a public duty imposed on a person or body by statute where that person or body has failed or refused to perform that duty.

14. Similar reasoning was adopted in **Republic v Permanent Secretary, Ministry of State for Provincial Administration and Internal Security Ex Parte Fredrick Manoah Egunza [2012] eKLR**, where the Court held that once a certificate of order against the Government has been issued and served, the accounting officer is under a statutory obligation to settle the decretal sum and mandamus is the appropriate remedy available to a decree holder where payment is not forthcoming.
15. The Court of Appeal reiterated the same principle in **Republic v Attorney General & Another Ex Parte James Alfred Koroso [2013] eKLR**, where it was emphasised that government entities cannot avoid satisfaction of lawful court decrees on the basis of administrative or budgetary constraints.
16. Section 21 of the Government Proceedings Act provides the statutory framework governing the satisfaction of decrees issued against the Government. The provision requires that

once a certificate of order against the Government has been issued and served, the accounting officer of the relevant government department becomes under a statutory duty to pay the sums specified in that certificate.

17. In the present case, the Applicant has demonstrated that a valid judgment and decree exist in Nyamira CMCC No. 18 of 2020 and that a certificate of order against the Government was issued confirming the sums payable under the judgment. The Applicant has further demonstrated that the decree and certificate of order against the Government were served upon the Respondent.
18. The Respondent has not shown that the decretal sum has been satisfied nor has it provided any lawful justification for the continued failure to settle the judgment debt.
19. While the Respondent contends that payment of public funds must comply with the legal framework governing public finance, that argument cannot operate to defeat the statutory duty imposed by Section 21 of the Government Proceedings Act. Courts have consistently held that internal administrative or budgetary arrangements cannot be relied upon to justify failure to comply with a lawful court decree.

20. Having considered the material placed before the Court and the applicable legal principles, I am satisfied that the Applicant has established the basis for the grant of the order sought.

21. Consequently, the Notice of Motion dated 02nd February 2026 is merited and it is allowed in the following terms:

1) An order of mandamus is hereby issued compelling the County Government of Nyamira, through its accounting officer, to pay to the Ex parte Applicant the decretal sum arising from Nyamira CMCC No. 18 of 2020 being Kenya Shillings Three Hundred and Fifteen Thousand Two Hundred and Twenty (KES. 315,220) together with costs assessed at Kenya Shillings Ninety-Eight Thousand One Hundred and Seventy-Five (KES. 98,175).

2) The decretal sum shall attract interest at the rate of 12% per annum from 09th November 2022 until payment in full, while the assessed costs shall attract interest at the rate of 14% per annum from 04th February 2020 until payment in full.

3) The Respondent shall also bear the costs of this application.

**DELIVERED AT NYAMIRA THIS
March 2026**

19th

DAY OF



WAMAE.T. W. CHERERE
JUDGE

Appearances

Court Assistant - Hilda

**For Exparte Applicant - Mr. Orayo for Khan &
Associates**

**For Respondent - Mr. Marongo for County
Attorney, Nyamira County Government**