



**Republic v County Secretary, Kisii County Government & 2 others;
 Oyugi (Exparte) (Environment and Land Judicial Review Case
 E001 of 2022) [2024] KEELC 3851 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 3851 (KLR)

**REPUBLIC OF KENYA
 IN THE ENVIRONMENT AND LAND COURT AT KISII
 ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E001 OF 2022**

M SILA, J

MAY 16, 2024

BETWEEN

REPUBLIC APPLICANT

AND

**COUNTY SECRETARY, KISII COUNTY GOVERNMENT 1ST RESPONDENT
 CHIEF OFFICER, FINANCE 2ND RESPONDENT
 KISII COUNTY GOVERNMENT 3RD RESPONDENT**

AND

DAVID MORANGA OYUGI EXPARTE

RULING

1. The *ex parte* applicant commenced this case seeking orders of *mandamus* to compel the 1st – 3rd respondents to satisfy the judgment and decree in Kisii ELC Petition No. 9 of 2016, *David Moranga Oyugi v County Government of Kisii & 4 Others* where the *ex parte* applicant held a decree for Kshs. 5,605,885/=. I heard the case and allowed it in my judgment delivered on 8 February 2023. I issued an order of mandamus compelling the respondents to jointly and/or severally make good the payment of Kshs. 5,605,885/= forthwith together with interest and costs of this suit. Despite the order of mandamus no payment was made.
2. The *ex parte* applicant has now filed the application dated 28 July 2023 asking this court to find that the respondents are in contempt and to have the 2nd and 3rd respondents arrested and committed to civil jail, or have their properties attached, to satisfy the decree. When the matter came up for inter partes hearing on 26 October 2023, Mr. Kaburi, learned counsel for the respondents stated that the County Government has made arrangements to pay. He stated from the bar that the decree was passed



in the budget and that he expected payment to be made by March 2024. Given those submissions, I directed that the matter be mentioned on 23 April 2024. On 23 April 2024, Mr. Kaburi, again from the bar, stated that the money was to be put in a supplementary budget but the same was shot down. He had no issue if the application is allowed.

3. I have considered the application. It is not opposed. The fact remains that no money has been paid to the *ex parte* applicant. The 2nd and 3rd respondents have not filed any affidavit to demonstrate that they are working towards making payment for the satisfaction of the decree. I find them to be in contempt of court. I will order the 2nd respondent to be arrested and placed in civil jail for a duration of 6 months from the time of execution of the warrant. The warrant of arrest and committal to civil jail be extracted and be executed by the OCS, Kisii Police Station. The 2nd respondent to so remain in civil jail for the next 6 months or until the money is paid whichever comes earlier.
4. The *ex parte* applicant will have the costs of this application.
5. Orders accordingly.

DATED AND DELIVERED THIS 16 DAY OF MAY 2024

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT AT KISII

