



Sino t/a Maywood Auctioneers v County Government of Kisumu & 5 others (Judicial Review E034 of 2024) [2025] KEELRC 2357 (KLR) (28 May 2025) (Ruling)

Neutral citation: [2025] KEELRC 2357 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
JUDICIAL REVIEW E034 OF 2024**

**JK GAKERI, J
MAY 28, 2025**

BETWEEN

GEORGE ARUNGA SINO T/A MAYWOOD AUCTIONEERS APPLICANT

AND

THE COUNTY GOVERNMENT OF KISUMU 1ST RESPONDENT

**THE COUNTY SECRETARY, COUNTY GOVERNMENT OF
KISUMU 2ND RESPONDENT**

**THE COUNTY CHIEF OFFICER FOR FINANCE AND ECONOMIC
PLANNING IN COUNTY GOVERNMENT OF KISUMU 3RD RESPONDENT**

**THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE
AND ECONOMIC PLANNING IN THE COUNTY GOVERNMENT OF
KISUMU 4TH RESPONDENT**

**THE COUNTY ATTORNEY, COUNTY GOVERNMENT OF
KISUMU 5TH RESPONDENT**

**THE HON. ATTORNEY GENERAL OF THE REPUBLIC OF
KENYA 6TH RESPONDENT**

RULING

1. Before the Court for determination is the ex parte applicant’s Notice of Motion dated 3rd December, 2024 seeking Orders that:

1. Spent.
2. Prerogative Orders of mandamus do issue to compel the respondents to comply with the Certificate of Order of Costs Against the Government of this court issued in ELRC Kisumu



Petition No. 36 of 2017 Dr. Samuel Okuro & 7 others V The County Public Service Board H.E. Professor Peter Anyang Ny'ong'o and George Sino ta Maywood Auctioneers and pay the Applicant the sum of Kshs.561,683.71 with interest together with costs of this suit.

3. In the alternative and without prejudice to prayer 2, the 1st, 2nd, and 3rd respondents be jailed for six (6) months for failure to pay the Applicant the sum of Kshs.561,683.71 with interest there on together with costs of this suit ordered in Elrc Kisumu Petition No. 36 OF 2017 Dr. Samwel Okuro & 7 Others V the County Public Service Board, the Governor Kisumu County H. E. Professor Peter Anyang Nyong'o and George Sino ta Maywood Auctioneer.
4. Further in the alternative, Orders of mandamus do issue granting the Applicant leave to attach the respondents bank accounts for failure to pay the applicant the sum of Kshs.561,683.71 with interest thereon together with costs of this suit ordered in Kisumu ELRC Petition No. 36 of 2017 Dr. Samwel Okuro & 7 Others V the County Public Service Board, The County Governor H.E. Professor Peter Anyang Ny'ongo and George Sino ta Maywood Auctioneers.
5. Costs of and occasioned by this application be provided for.
2. The Notice of Motion is expressed under Order 53 Rule 3 of the Civil Procedure Rules and is based on the grounds set out on its face and the Supporting Affidavit sworn by Mr. George Arunga Sino on 3rd December, 2024, who deposes that he is a class B licensed Auctioneer practicing as such under the firm name Maywood Auctioneers.
3. The affiant deposes that Kisumu Petition No. 36 of 2017 was decided in favour of the applicants against the County Government of Kisumu and the Petitioner's Bill of Costs was taxed in the sum of Kshs.1,093,120 on 14th March, 2018.
4. That the Petitioner's Advocates Ms. N.E Mogusu & Associates Advocates, instructed the ex-parte applicant to execute the decree on costs in Kisumu Petition No. 36 of 2017 by way of attachment of the respondents properties so as to realise the decretal sum and executed his mandate and the 1st, 2nd, 3rd and 4th respondents were Ordered to pay his fees and the same was taxed at Kshs.561,683.71 and the same remains unpaid demand notwithstanding.
5. The affiant further deposes that despite extracting the Certificate of Order Against the County Government, but amount was not settled and was thus praying for the Order of mandamus.
6. The respondents did not respond to the application but their counsel appeared in court on 20th January, 2025 and sought leave to respond to the Notice of Motion and was accorded 7 days to do so. Parties were also implored to explore the possibility of settling the matter out of court and were accorded 30 days with a mention on 20th February, 2025, when both counsels were present Mr. Odhiambo for the respondents sought 45 days for a proposal to be made but confirmed that an Order of mandamus could issue. Mr. Maobe for the applicant had no objection for the grant of the order.
7. Counsels agreed that the application be allowed and payment be effected within 45 days and an Order of mandamus was decreed in terms of prayer No. 2 of the applicant's Notice of Motion dated 3rd December, 2024.
8. Strangely, Mr. Odhiambo still sought 7 days to file a response and submissions as per the client's instructions, for the two processes to proceed simultaneously. Mr. Maobe on the other hand wondered why counsels should endure the trouble of going through the filing of responses and submissions yet the order had already been granted.



9. However, by agreement, the respondent was accorded 7 days to file and serve a response and the applicant leave to file a Further Affidavit as necessary and 14 days a piece for the parties to file and exchange submissions with a mention on 7th April, 2025, before the Deputy Registrar. None of the parties was present and a further mention before this court on 12th May, 2025 when again it was a no show.
10. Puzzlingly, none of the counsels acted on the court's directions issued on 20th February, 2025 on response, and filing and exchange of submissions.
11. As the Applicant's Notice of Motion dated 3rd December, 2025 is unopposed and in any case the application was granted by consent on 20th February, 2025, the order of mandamus made on 20th February, 2025 is enforceable and no further Order of this court is necessary for purposes of disposal of the instant application.
12. Finally, counsel sought various directions on 20th February, 2025, the same were granted but none of them acted in their furtherance.
13. All other prayers are declined.
14. Parties shall bear own costs of this application.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KISUMU ON THIS 28TH DAY OF MAY, 2025

DR. JACOB GAKERI

JUDGE

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

DR. JACOB GAKERI

JUDGE

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