



**Gateria v Embu County Government & 3 others (Employment and Labour Relations
Judicial Review E002 of 2025) [2025] KEELRC 2377 (KLR) (14 August 2025) (Judgment)**

Neutral citation: [2025] KEELRC 2377 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NYERI
EMPLOYMENT AND LABOUR RELATIONS JUDICIAL REVIEW E002 OF 2025
ON MAKAU, J
AUGUST 14, 2025**

BETWEEN

MUNDIA NJERU GATERIA APPLICANT

AND

**EMBU COUNTY GOVERNMENT & 3 OTHERS & 3 OTHERS & 3
OTHERS RESPONDENT**

JUDGMENT

Introduction

1. By a Notice of Motion dated 3rd March 2025, the applicant seeks the following orders: -
 - a. That an order of Mandamus to issue to compel the Embu County and specifically the Governor, Hon.Cecily Mutitu Mbarire, Chief Officer-Finance and Economic Planning, Mr.Damiano Muthee Njagi, and the County Executive Committee Member, Prof. Joe Kamaria to satisfy the decree passed by the High Court herein on 28th July, 2023.
 - b. That the costs of this Application be borne by the Respondent in any event.
 - c. That this Honourable court be pleased to give all necessary directions.
2. The motion is supported by the applicant's affidavit sworn on 3rd March 2025. The respondents were served but they never filed any response. Consequently, the motion proceeded ex parte by written submissions.

Background

3. The applicant was the chairman of the Embu County Public Service Board and by letter dated 18th March 2015, the 2nd Respondent purported to interdict him. The applicant petitioned this court and obtained judgment on 20th November 2025 whereby, among other orders, it was declared that the



respondents had no mandate to subject the applicant to disciplinary action or to interdict him from the office of chairman, Embu County Public Service Board. Further, the court ordered the 1st respondent to pay the applicant Kshs.2,025,000 while the Governor then in office Honourable Martin Nyaga Wambora was ordered to pay the Applicant Kshs.5,000,000 for violation of his fundamental rights and freedoms.

4. The said sums were never paid but by the consent dated 27th July 2023, the parties agreed as follows: -
 1. “The 1st Respondent, Embu County Government, shall pay an all-inclusive sum of Kshs.8,965,975 to cover the pending decretal sum, lawyers’ fees, interest and costs as follows: -
 - a. Kshs.2,500,000 shall be paid on or before 30th September, 2023.
 - b. The balance shall be paid in 4 equal instalments skipping every one (1) successive month from the date of the first instalment until settlement in full.
 2. The 1st Respondent, Embu County Government, shall pay an agreed Auctioneers fees of Kshs.350,000 alongside the first instalment.
 3. In default, execution to issue against the 1st respondent, Embu County Government.”
5. The consent was adopted by the court on 28th July 2023 but again the respondents failed to pay the said money as agreed. The applicant is now before the court to enforce the said judgment. I have carefully considered the motion, the statement of facts and the affidavits filed in support of the leave application. The issue for determination is whether the application should be allowed.
6. It is trite law that enforcement of judgment against government is governed by the [Government Proceedings Act](#). Section 21 of the Act provides: -

“21. Satisfaction of orders against the Government;

1. Where in any civil proceedings by or against the Government, or in proceedings in connection with any arbitration in which the Government is a party, any order (including an order for costs) is made by any court in favour of any person against the Government, or against a Government department, or against an officer of the Government as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

2. A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.



3. If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the Accounting Officer for the Government department concerned shall, subject as hereinafter provided, pay to the person entitled or to his advocate the amount appearing by the certificate to be due to him together with interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such direction to be inserted therein.

4. Save as aforesaid, no execution or attachment or process in the nature thereof shall be issued out of any such court for enforcing payment by the Government of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Government, or any Government department, or any officer of the Government as such, of any money or costs.
5. This section shall, with necessary modifications, apply to any civil proceedings by or against a county government, or in any proceedings in connection with any arbitration in which a county government is a party.”

7. The above section requires that 21 days after the judgment or after taxation of costs, whichever is late issue a certificate of order against government indicating the amount payable as damages or costs or both. Upon issuance of the said Certificate, the Accounting officer for the Government department concerned, shall pay the person entitled to the payment or his advocate the amount indicated in the certificate plus interest.
8. It follows that before any person purports to enforce a judgment against the government, he must demonstrate that he has complied with section 21 of the *Government Proceedings Act* by obtaining a decree, certificate of costs and certificate of order against the Government. I have perused the material filed in the instant case but I have not seen any copy of decree, certificate of costs and certificate of order against the government.
9. All that was filed was copy of the Judgment delivered on 20th November 2015 and a consent dated 27th July 2023. Consequently, I find that the order of mandamus cannot issue since the applicant has not met the legal requirements for the respondent’s Accounting officers to pay, and as such the application is premature, and proceed to dismiss it with no costs since the respondents did not oppose the same. However, the applicant is at liberty to move the court in future once he complies with the legal requirements under section 21 of the *Government Proceedings Act*.

DATED, SIGNED AND DELIVERED AT NYERI THIS 14TH DAY OF AUGUST, 2025.

ONESMUS N MAKAU

JUDGE



Order

This judgment has been delivered to the parties via Teams video conferencing with their consent, having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

ONESMUS N MAKAU

JUDGE

