



**Republic v County Government of Kisumu & 3 others; Nakitari (Exparte Applicant) (Judicial Review Application E040 of 2023) [2024] KEELRC 15 (KLR) (24 January 2024) (Judgment)**

Neutral citation: [2024] KEELRC 15 (KLR)

**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**JUDICIAL REVIEW APPLICATION E040 OF 2023**

**S RADIDO, J**

**JANUARY 24, 2024**

**IN THE MATTER OF APPLICATION FOR JUDICIAL REVIEW ORDER OF MANDAMUS**

**AND**

**IN THE MATTER OF ENFORCEMENT OF COURT ORDERS AND DECREE AGAINST THE GOVERNMENT**

**AND**

**IN THE MATTER OF THE GOVERNMENT PROCEEDINGS ACT**

**AND**

**IN THE MATTER OF THE COUNTY GOVERNMENTS ACT**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**COUNTY GOVERNMENT OF KISUMU ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY SECRETARY, COUNTY GOVERNMENT OF KISUMU .... 2<sup>ND</sup> RESPONDENT**

**CFO FINANCE, COUNTY GOVERNMENT OF KISUMU ..... 3<sup>RD</sup> RESPONDENT**

**CEC FINANCE & ECONOMIC PLANNING, COUNTY GOVERNMENT OF KISUMU ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**HUMPHREY OKUKU NAKITARI ..... EXPARTE APPLICANT**



## JUDGMENT

1. The Court granted leave to Humphrey Okuku Nakitare (the *ex-parte* applicant) on 6 October 2023, to commence judicial review proceedings against the County Government of Kisumu, the County Secretary, the Chief Finance Officer and County Executive Committee member, Finance & Economic Planning.
2. The *ex-parte* applicant filed the instant Motion on 17 October 2023, and the Court gave directions on 19 October 2023.
3. The *ex-parte* applicant's submissions were not on record by the agreed timeline of 17 December 2023.
4. Despite service, the Respondents did not bother to participate in the proceedings or file submissions.
5. Judgment was reserved to 31 January 2024.
6. On 27 November 2023, the Deputy Registrar notified the parties to appear in Court on 5 December 2023 in order or the Court to inform the parties of a change in the date for delivery of judgment. None of the parties appeared and the Court directed the Deputy Registrar to inform them that the judgment would be delivered on 24 January 2024 and not 31 January 2024.
7. The Court has considered the Motion and the law and finds that Motion is incompetent.
8. One, the *ex-parte* applicant filed fresh affidavits and statutory statement instead of exhibiting or attaching the affidavits and statutory statement filed while seeking leave to commence judicial review proceedings.
9. Two, the *ex-parte* applicant did not secure the leave of the Court to file the new affidavits/statutory statement.
10. Three, the *ex-parte* applicant did not exhibit a copy of Certificate of Costs to support the contention that costs had been taxed.
11. Lastly, the *ex-parte* applicant did not place before the Court a Certificate of Order against the County Government.

### Conclusion and Orders

12. Flowing from the above, the Motion dated 16 October 2023 is found incompetent and it is struck out with no order on costs.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 24<sup>TH</sup> DAY OF JANUARY 2024.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

Appearances

For *ex-parte* applicant Amondi & Co. Advocates

Respondents did not participate

Court Assistant Chrispo Aura

