



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Secretary, County Government of Kisumu & another; Mwamu (Exparte)  
(Judicial Review E041 of 2023) [2024] KEELRC 601 (KLR) (13 March 2024) (Judgment)**

Neutral citation: [2024] KEELRC 601 (KLR)

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**  
**JUDICIAL REVIEW E041 OF 2023**  
**S RADIDO, J**  
**MARCH 13, 2024**  
**IN THE MATTER OF AN APPLICATION FOR**  
**JUDICIAL**  
**REVIEW ORDERS OF**  
**MANDAMUS**  
**AND PROHIBITION**  
**AND**  
**IN THE MATTER OF JAMES AGGREY MWAMU**  
**AND**  
**IN THE MATTER OF THE KISUMU COUNTY**  
**GOVERNMENT**  
**AND**  
**IN THE MATTER OF THE DECISION BY JUSTICE**  
**STEPHEN**  
**RADIDO ON THE 1ST OCTOBER**  
**2023**  
**AND**  
**IN THE MATTER OF CLAIM NO. 30 OF 2020**  
**AND**  
**IN THE MATTER OF THE COUNTY GOVERNMENTS**  
**ACT**  
**AND THE RULES THEREOF**  
**AND**



**IN THE MATTER OF ARTICLES 1, 2, 3(1), 10,  
12(1), 19,  
20, 21, 22, 23(1) & (3), 43,  
47(1),  
48, 160(1), 165(3)(B) AND  
258(1)  
OF THE CONSTITUTION OF  
KENYA,  
2010  
AND  
IN THE MATTER OF RULES 11, 12, 13, 20 AND 21  
OF THE  
CONSTITUTION OF KENYA  
(SUPERVISORY  
JURISDICTION AND  
PROTECTION OF  
FUNDAMENTAL  
RIGHTS AND FREEDOMS OF  
THE  
INDIVIDUAL) HIGH COURT  
PRACTICE AND PROCEDURE  
RULES,  
2006)**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

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

**CHIEF FINANCE OFFICER, COUNTY GOVERNMENT OF  
KISUMU ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**JAMES AGGREY MWAMU ..... EXPARTE**



## JUDGMENT

1. The Court granted leave to James Aggrey Mwamu (ex-parte applicant) to commence judicial review proceedings against the Secretary, County Government of Kisumu and Chief Officer, Finance, County Government of Kisumu (the Respondents) on 30 November 2023.
2. The proceedings were commenced on 15 December 2023.
3. Despite service of the Motion on 23 January 2024, the Respondents did not bother to respond to the application (affidavit of service was filed on 6 February 2024).
4. The ex-parte applicant filed his submissions on 26 February 2024.
5. The Court has considered the Motion, supporting affidavit and submissions.
6. It is not in dispute that the Court delivered a judgment on 1 February 2023, awarding the ex-parte applicant Kshs 1,470,000/- in Cause No. 30 of 2020, James Aggrey Mwamu v County Government of Kisumu.
7. A Certificate of Order against the County Government under section 21(1) of the Government Proceedings Act was issued on 1 February 2023, and it was served upon the County Government.
8. The ex-parte applicant thereafter caused his Bill of Costs to be taxed at Kshs 303,745/- and a Certificate of Costs was issued on 11 April 2023.
9. The ex-parte applicant now seeks an order of mandamus compelling the Respondents to settle the decretal sum together with the costs.
10. Despite the grant of leave, the Court has relooked at the leave application and the instant Motion.
11. The ex-parte applicant did not comply with Order 53 Rule 1(2) of the Civil Procedure Act which requires an ex-parte applicant to file together with the leave application a copy of a Statutory Statement setting out the name and description of the applicant, the reliefs sought and the grounds for seeking such relief.
12. The Statutory Statement is also missing in the instant Motion and the Court is constrained to find the Motion incompetent.

### Conclusion and Orders

13. The Motion dated is struck out with no order on costs, since the Respondents did not participate in the proceedings.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 13<sup>TH</sup> DAY OF MARCH 2024.**

**RADIDO STEPHEN, MCI Arb**

**JUDGE**

Appearances

For ex-parte applicant Mwamu & Co. Advocates

Respondents did not participate



