



Republic v Attorney General; Mutinda (Exparte) (Judicial Review E034 of 2024) [2024] KEELRC 13244 (KLR) (27 November 2024) (Judgment)

Neutral citation: [2024] KEELRC 13244 (KLR)

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

B ONGAYA, J

NOVEMBER 27, 2024

**IN THE MATTER OF AN APPLICATION BY ADAM ISILU
MUTINDA FOR JUDICIAL REVIEW ORDER OF MANDAMUS**

AND

IN THE MATTER OF ELRC CAUSE NO. 668 OF 2014

AND

IN THE MATTER OF THE JUDGMENT DATED 12TH SEPTEMBER 2019

AND

**IN THE MATTER DECREE ISSUED ON 12TH SEPTEMBER 2019 AND THE
CERTIFICATE OF ORDER AGAINST THE GOVERNMENT DATED 27TH JANUARY 2020**

BETWEEN

REPUBLIC APPLICANT

AND

THE ATTORNEY GENERAL RESPONDENT

AND

ADAM ISILU MUTINDA EXPARTE

JUDGMENT

1. The applicant filed a notice of motion dated 09.10.2024 through Agina & Associates Advocates. The relief prayed for was as follows:
 - a. An order of mandamus to issue against the Attorney General compelling to pay the ex-parte applicant the sum of Ten Million Eight Hundred and Eighty One Thousand, Eight Hundred and Sixty One (Kshs.10,881,861.00) plus costs and interest thereon at Court rates (12%) from



27.01.2020, the date of the award, to the date of payment in full being the decretal arising in Milimani ELRC Cause 668 of 2014 Adam Isilu Mutinda Vs The Attorney General.

- b. The respondent to pay costs of the application.
2. The applicant has exhibited the judgment and decree therefrom in Milimani ELRC Cause 668 of 2014 Adam Isilu Mutinda Vs The Attorney General. Onesmus Makau J delivered the judgment on 12.07.2019 for Kshs. 10,000,000.00 plus costs and interest at Court rates from the date of the judgment (12.07.2019.).
3. The applicant's case is that the respondent has failed to pay the long outstanding decretal sum and will not pay unless ordered by the Court to pay.
4. The respondent alleged that the application was not served and discovered about the application upon service of the submissions. The respondent filed submissions through the learned Special State Counsel Mr. W W Kimotho for the Attorney General. It was urged that the payment had not been effected and it was not deliberately so but due to the prevailing financial austerity measures in the Government. The submissions in a misapprehension of the proceedings before the Court urged that the Court should not grant the contempt application.
5. The applicant has exhibited the certificate of orders against the Government under section 21 of the Government Proceedings Act being exhibit NKS-4 for a sum of Kshs.10, 881, 861.00, dated 27.01.2020.
6. There appears no material objections to the application.
7. In the circumstances, the notice of motion dated 09.10.2024 is hereby allowed and determined with reliefs as follows:
 - a. The order of mandamus hereby issued against the Attorney General compelling the Attorney General to pay the ex-parte applicant the sum of Ten Million Eight Hundred and Eighty One Thousand, Eight Hundred and Sixty One (Kshs.10,881,861.00) plus costs and interest thereon at Court rates (12%) from 27.01.2020, the date of the award, to the date of payment in full being the decretal arising in Milimani ELRC Cause 668 of 2014 Adam Isilu Mutinda Vs The Attorney General.
 - b. The respondent to pay costs of the application.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS WEDNESDAY 27TH NOVEMBER 2024.

BYRAM ONGAYA

PRINCIPAL JUDGE

