



Republic v Nairobi City County; Richard K. Masinde (Exparte Applicant) (Judicial Review Application E056 of 2024) [2024] KEELRC 13495 (KLR) (19 December 2024) (Judgment)

Neutral citation: [2024] KEELRC 13495 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
JUDICIAL REVIEW APPLICATION E056 OF 2024**

**B ONGAYA, J
DECEMBER 19, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

NAIROBI CITY COUNTY RESPONDENT

AND

RICHARD K. MASINDE EXPARTE APPLICANT

JUDGMENT

1. The ex parte applicant filed the notice of motion dated 07.11.2024 through Anya Kalwa & Company Advocates. It was brought under sections 8 and 9 of the *Law Reform Act*, Cap. 26, Order 53 rule 3 of the Civil Procedure Rules, 2010 and all other enabling provisions of the law. The ex parte applicant seeks the following orders:
 1. An Order of Mandamus to remove into this Honourable Court and compel the respondent to pay the applicant the decretal amount of Kshs. 2,576,400/= as per the Judgment delivered on 23.02.2024 by Hon. Lady Justice Stella Rutto, in ELRC Suit No. 587 of 2016 at Nairobi and costs of the suit of Kshs. 332,666/= as taxed vide Certificate of Taxation dated 30.08.2024 by the Hon. Deputy Registrar Employment & Labour Relations Court.
 2. An order for costs of this application to be provided for.
2. The application was based upon the grounds set out in the ex parte applicant’s statutory statement and verifying affidavit (filed together with the application for leave to file the instant application) both sworn on 25.10.2024.
3. The ex parte applicant’s case was as follows:



- a. The respondent has failed, refused, ignored or neglected to pay the ex parte applicant the decretal amount of Kshs. 2,576,400/= awarded to him vide a Judgment dated 23.02.2024 and the cost of the suit of Kshs. 332,666/= as per the Certificate of Taxation dated 30.08.2024.
 - b. Consequent to the judgment of the Honourable Court, the applicant drafted a Decree dated 01.03.2024, which was presented to the Deputy Registrar for certification and thereafter served upon the respondent for payment. The applicant then prepared his Bill of Costs that the respondent contested in Court and for which contention the Deputy Registrar rendered a ruling on 22.08.2024 taxing the same at Kshs. 332,666/=.
 - c. The applicant did a reminder to the respondent through a letter dated 06.05.2024, to which the respondent replied in its letter dated 21.05.2024 informing the applicant that payment process commenced on 03.04.2024. After exercising patience as advised, the applicant drafted another letter dated 13.09.2024 reminding the respondent the pending payments and therewith enclosed the certificate of taxation and the bank account number to which payments were to be made. However, the respondent has to date not made the said payments, hence this application.
 - d. There is no pending stay order on the payment of the decretal sum and costs of the suit to warrant the respondent's exhibited delay in payment. The respondent is denying the applicant his fruit of judgment while being aware that there is no appeal and/or stay pending in any court with competent jurisdiction.
4. The application was not opposed and final submissions were filed for the applicant. The Court returns that the applicant has established the claim and is entitled to the reliefs as prayed for because the respondent is obligated to pay the decretal sum plus costs.

In conclusion, the application is hereby allowed as follows:

1. The Order of Mandamus hereby issued compelling the respondent to pay the applicant the decretal amount of Kshs. 2,576,400/= as per the Judgment delivered on 23.02.2024 by Hon. Lady Justice Stella Rutto, in ELRC Suit No. 587 of 2016 at Nairobi and costs of the suit of Kshs. 332,666/= as taxed vide Certificate of Taxation dated 30.08.2024 by the Hon. Deputy Registrar Employment & Labour Relations Court.
2. The respondent to pay costs of the application.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS THURSDAY 19TH DECEMBER 2024.

BYRAM ONGAYA

PRINCIPAL JUDGE

