



REPUBLIC OF KENYA



KENYA LAW
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Republic v Commissioner General of Prisons & another; Cheruiyot (Exparte) (Judicial Review E014 of 2022) [2023] KEELRC 261 (KLR) (8 February 2023) (Ruling)

Neutral citation: [2023] KEELRC 261 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
JUDICIAL REVIEW E014 OF 2022
S RADIDO, J
FEBRUARY 8, 2023
IN THE MATTER OF AN APPLICATION FOR
JUDICIAL REVIEW BY WAY
OF AN ORDER OF
MANDAMUS
AND
IN THE MATTER OF ARTICLES 41, 73, 162, 233
AND 234 OF THE
CONSTITUTION OF KENYA
AND
IN THE MATTER OF SECTIONS 45 AND 49 OF
THE EMPLOYMENT ACT
2007
AND
IN THE MATTER OF SECTIONS 7, 8 AND 9 OF
THE FAIR ADMINISTRATIVE
ACTION ACT 2015
AND
IN THE MATTER OF SECTIONS 20 AND 21 OF
THE GOVERNMENT
PROCEEDINGS ACT
AND
IN THE MATTER OF ORDER 29 OF THE CIVIL



PROCEDURE RULES
AND
1 | 4 P A G E K I S U M U J R N O . E 0 1 4 O F
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IN THE MATTER OF ORDERS 53(1) OF THE
CIVIL PROCEDURE RULES
AND
IN THE MATTER OF EXECUTION OF A DECREE
OF KSHS 546,000/-

BETWEEN

REPUBLIC APPLICANT

AND

COMMISSIONER GENERAL OF PRISONS 1ST RESPONDENT

PUBLIC SERVICE COMMISSION 2ND RESPONDENT

AND

MUSA KIPRONO CHERUIYOT EXPARTE

RULING

1. The Court granted leave on November 22, 2022 to Musa Kiprono Cheruiyot (*ex-parte* applicant) to commence judicial review proceedings against the Commissioner General of Prisons and the Public Service Commission.
2. The *ex-parte* applicant filed the Motion on November 25, 2022 and the Court gave directions on December 13, 2022, (Ms Essendi from the office of the Honourable Attorney General was present when the directions were given).
3. Despite the directions, the Respondents' responses were not on record by the agreed timeline of January 10, 2023.
4. The *ex-parte* applicant filed his submissions on January 23, 2023.
5. It is not in dispute that the Court entered judgment for the *ex-parte* applicant for Kshs 546,000/- in Kisumu Cause No 330 of 2016, *Musa Kiprono Cheruiyot v Commissioner General of Prisons & Ar.*
6. It is also not in dispute that the *ex-parte* applicant obtained a decree, certificate of costs and certificate of order against the government.
7. The Respondents have not filed any response to the Motion to explain why they have failed to comply with the decree and certificates.
8. The Court, therefore decrees that:



- i. An order of mandamus is hereby issued against the 1st Respondent's Accounting Officer compelling him/her to pay the *ex-parte* applicant the decretal sum of Kshs 546,000/- together with interest.
- ii. The *ex-parte* applicant to have costs of the Motion.

DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 8TH DAY OF FEBRUARY 2023.

RADIDO STEPHEN, MCIARB

JUDGE

APPEARANCES

For *ex-parte* applicant Wachira Wanjiru & Co. Advocates

Respondents did not formally come on record

Court Assistant Chrispo Aura

