



**Republic v Kisumu County Government & another; Vincent &  
8 others (Exparte) (Environment and Land Judicial Review Case  
E003 of 2022) [2023] KEELRC 257 (KLR) (1 February 2023) (Ruling)**

Neutral citation: [2023] KEELRC 257 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU  
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E003 OF 2022  
S RADIDO, J  
FEBRUARY 1, 2023**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

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

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

**AND**

**ENG ADDA KODERO VINCENT ..... EXPARTE**

**DR OMINDE ELIZABETH MARY ..... EXPARTE**

**GEORGE ONGAYA OKOTH ..... EXPARTE**

**BARAK OTIENO ..... EXPARTE**

**JENIFFER ATIENO KERE ..... EXPARTE**

**ROSE AUMA KISIA OMONDI ..... EXPARTE**

**JOHNSON OWUOR ..... EXPARTE**

**RHODA ATIENO AHONO OBADHA ..... EXPARTE**

**MICHAEL OWUOR ONYANGO ..... EXPARTE**

**RULING**

1. The Court granted leave to the ex-parte applicants on February 22, 2022 to apply for judicial review orders of mandamus to compel the Respondents to pay them Kshs 20,338,043/- which had been



awarded to them by the Court in *ELRC Cause No 373 of 2018, Eng Adda Kodero Vincent & Ors v County Government of Kisumu & Ar.*

2. The ex-parte applicants filed the judicial review Motion and served it upon the Respondents. When the Motion came up for hearing on March 22, 2022, the Respondents failed to appear and the Court granted the order of mandamus.
3. The Respondents did not comply with the order of mandamus and on September 20, 2022, the ex-parte applicants applied for warrants of arrest.
4. Again, the Motion was served but when it came for hearing on October 6, 2022, the Respondents failed to turn up and the Court issued warrants of arrest.
5. On October 13, 2022, the advocates for ex-parte applicants and the Respondents appeared in Court, and the Respondents requested the Court to allow the time to settle.
6. The Court allowed the Respondents requests and set mention for November 21, 2022 to confirm settlement.
7. On November 21, 2022, the Court was informed that settlement had not been reached, and the Court, therefore, gave the go ahead for the enforcement of the warrants of arrest.
8. On December 16, 2022, the Respondents filed a Motion seeking stay of execution of the warrants of arrest issued on October 6, 2022 for three months to enable them pay the decretal sums.
9. The primary grounds in support of the Motion were that the County Government was facing cash flow disbursements from the National Government and that the Respondents had written to the County Assembly to include the decretal sum in the supplementary budget, and the request had been complied with and that payment would be made before end of January 31, 2023.
10. The Respondents filed submissions on the Motion on December 22, 2022, wherein it was asserted that the application would be rendered nugatory if the stay order was not allowed.
11. The ex-parte applicants filed Grounds of Opposition and submissions in opposition to the Motion on December 29, 2022.
12. According to the ex-parte applicants, the Motion had no merit because the Respondents had approached the Court 4 years after judgment and had not offered any explanation for the inordinate delay, the Respondents had not made any offers of settlement and hence the application was not genuine, there was no evidence of the decretal sum having been included in the supplementary budget and that the application was defective as it was not brought under the Rules of the Court.
13. The Court has considered the Motion, affidavit in support, Grounds of Opposition and the submissions and come to the view that the application is without merit.
14. The Court has come to the view because the Respondents have not placed any evidence at all before it that the County Assembly had been requested to include monies to satisfy the debt in the supplementary budget.
15. A copy of the request to the County Assembly was not filed nor was a copy of the Supplementary budget.
16. It is not lost to the Court that the settlement of the judgment amount has been pending for over 4 years and there has been no explanation of the steps taken to settle it considering that there is no pending appeal.



17. Further, the timeline the Respondents indicated they required to settle the debt has elapsed and no affidavit or evidence has been put before the Court that payment was made by the said timeline.
18. Lastly, the Respondents did not take the Court proceedings and processes seriously. Their conduct has been less than diligent. They were served with court processes but twice failed to appear in Court to assist the Court in an expeditious and proportionate resolution of the dispute.

### **Conclusion and Orders**

19. The Motion dated December 16, 2022 is dismissed with costs.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN KISUMU ON THIS 1<sup>ST</sup> DAY OF FEBRUARY 2023.**

**Radido Stephen, MCI Arb**

**Judge**

**Appearances**

**For ex-parte applicants Bruce Odeny & Co. Advocates**

**For Respondents Sala & Mudany Advocates**

**Court Assistant Chrispo Aura**

